

and the documents directed to be sent to the Clerk of the Crown shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

29. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed

If unsustainable, where the trial of the person the proceedings may charged shall take place; the be stayed. charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to as last aforesaid or not shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

30. Pending the directions of the High Court Procedure pend- as to the place of trial, every ing directions of such British subject as is refer- High Court. red to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

31. It shall be lawful for the High Court to High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail. direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British sub-

jects shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section of this Act to be given and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

32. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

33. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

34. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury. Trials under Commission to be by Jury.

35. Whenever the Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

36. If the person charged shall be a European British subject and shall so require before the Jury shall be empanelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

37. On every trial mentioned in the thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

38. During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial

nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

39. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

40. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

41. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed

by the Sudder Court under the Code of Criminal Procedure.

42. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

43. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

44. From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

45. This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

46. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1865, and was referred to a Select Committee, with instructions to make their report thereon in a fortnight:—

No 9 of 1865.

A Bill to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).

WHEREAS it is expedient to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties); It is enacted as follows:—

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, direct that, in the whole of the British Territories in India, or in such part thereof as may be specified in the said order, such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments or Writings specified in the Schedules annexed to the said Act, or on any particular class of such Deeds, Instruments or Writings, or on any of the Deeds, Instruments or Writings belonging to any such class, or he may altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancellation or variation shall also be notified in the Official Gazette.

3. This Act shall be read with and taken as part of the said Act No. X of 1862.

STATEMENT OF OBJECTS AND REASONS.

The part of the Stamp Act, which the present Bill proposes to amend, is the thirty-third Section. By that Section the Governor-General of India in Council is empowered to reduce the rate of Stamp Duty on all or any of the Deeds, Instruments and Writings described in the Schedules at the end of the Act, or altogether to exempt them from Stamp Duty. The Section, as now framed, might be supposed to be sufficiently large and comprehensive to enable the Government of India to do all that is necessary in the direction of the Section, and to meet every case in which a reduction of Stamp Duty might be deemed just or reasonable; but experience has shewn that the wording of the Section is too restrictive, and that the power given by it requires to be enlarged. An application has recently been made to the Government of India to reduce the Stamp Duty chargeable on bonds which are taken under the Indian Customs Act of 1863. These bonds are now liable to the same Stamp Duty as all other bonds or obligations for the payment of money. Compared with England the amount of Stamp Duty on bonds in this Country is high, and as levied on the class of bonds just mentioned, it is found to press heavily upon trade, and particularly upon the bonders of Salt cargoes.

Looking to the circumstances under which these bonds are taken, and to the fact that actions to enforce them are very rare, the Government are disposed to view favourably the proposition that has been made for the reduction of the rate of Stamp Duty to which they are now liable, and to follow to some extent the English practice in respect of such bonds; but they are advised that, although they have power to lower the rate of Stamp Duty on bonds generally in the whole or any part of British India, they have not power to reduce the rate of Stamp Duty on any particular class of bonds. The object of the present Bill is to invest the Government of India with this power as regards not only bonds, but also all other Deeds, Instruments and Writings liable to Stamp Duty.

H. B. HARRINGTON.

The 3rd March 1865.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)*

The following Report of the Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1865:—

REPORT.

We the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to regulate the admission, removal, and remuneration of Advocates and Attorneys in the Civil and Criminal Courts and Revenue Offices of the North-Western Provinces of the Presidency of Bengal was referred, have the honour to report that we have considered the Bill.

In consequence of the communication referred to on the introduction of the Bill, we have extended its operation to the Lower Provinces of Bengal. We have also provided for the extension of the Bill to the Territories subject to any Local Government, other than the Governments of Bengal and the North-Western Provinces. The Bill may thus become applicable to the whole of British India, and we have therefore thought it desirable to make its provisions more comprehensive and definite than was deemed necessary when, as originally intended, it applied only to the North-Western Provinces.

For the words "Advocates" and "Attorneys" we have substituted "Pleaders" and "Mookhtars," as being more familiar terms and less likely to lead to confusion. We have provided that the High Court (which is defined to mean the highest Civil Court of Appeal in any place in which the Act shall operate), shall make rules not only for the qualification and removal of persons as Pleaders and Mookhtars, but also for their examination;

and we propose that the Local Government shall appoint the examiners. These rules are to be submitted to the Local Government for approval. We have further provided for the enrolment of Pleaders and Mookhtars on the Books of the High Court, and for the issue and renewal of annual certificates, stamped with a stamp varying in amount with the Courts in which the holders shall practise. In this, as in other respects, we have, to some extent, followed the provisions, though not the words, of the English Statute 6 and 7 Vic., cap. 73.

Uncertificated persons (other than Advocates and Attorneys-at-law enrolled in the High Court) practising as Pleaders or Mookhtars are to be liable to fine and imprisonment, and to be incapable of recovering fees.

The High Court is empowered to suspend or dismiss all Pleaders or Mookhtars on its Roll who shall be convicted of a criminal offence. It may also suspend or dismiss any Pleader or Mookhtar guilty of unprofessional conduct; and we have provided a procedure when a charge of such conduct is brought in a subordinate Court. On suspension or dismissal, the Pleader or Mookhtar will have to surrender his certificate.

We have struck out Sections 12 to 15, and have in lieu thereof given power to the High Court to prepare tables of fees chargeable to a party on account of the fees of his adversary's Pleader.

The provisions as to Mookhtars practising in the Revenue Courts (whom we propose to call Revenue Agents) have been made to correspond closely with those applicable to Pleaders and Mookhtars practising in the Civil Courts.

We have fixed the 1st January 1866 for the coming into operation of the Act.

We propose that the Bill as amended, together with this Report, be published for three weeks in the *Gazette of India*.

H. B. HARRINGTON.
CECIL BEADON.
H. S. MAINE.
W. MUIR.
R. N. CUST.

The 7th March 1865.

AMENDED BILL.

No. 15 OF 1864.

A Bill to amend the law relating to Pleaders and Mookhtars.

WHEREAS it is expedient to amend the law relating to Pleaders and Mookhtars; It is enacted as follows:—

Preliminary.

Short title.

1. This Act may be cited as "The Pleaders and Mookhtars' Act, 1865."

2. In this Act, unless there be something repugnant or inconsistent in the subject or context —

Words importing the singular number include the plural, and words importing the plural number include the singular.

“Section.” “Section” means a Section of this Act.

“Person” includes any Company or Association or body of persons, whether incorporated or not.

“Pleader.” “Pleader” includes Vakeels.

“Collector” includes Officers performing any of the duties of a Collector of land revenue.

“Magistrate.” “Magistrate” includes Officers exercising any of the powers of a Magistrate.

“Judge” means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

“Court” means all Courts subordinate to the High Court, including Courts of Small Causes.

“District” means the local jurisdiction of the principal Civil Court of original jurisdiction; and “District Court” means such

Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation Provinces, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, “Local Government” denotes the person authorized to administer the executive Government in such part: “High Court” denotes the highest Civil Court of Appeal, and “Board of Revenue” denotes the chief revenue authority therein.

3. So far as they affect the Territories to which this Act extends, the Laws repealed. enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Of Pleaders and Mookhtars.

4. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars.

tars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also, from time to time, vary and add to such rules.

5. No person shall appear, plead, or act as a Pleader, or appear or act as a Mookhtar in any Court in the Territories to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the

case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule, or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

6. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

7. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar, pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

8. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate when renewed, as provided in the ninth Section, may be issued and signed by the Officer so appointed, or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

9. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period

of one year from the date of the certificate. At the expiration of such time the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

10. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(a.) In the High Court and any subordinate Court—Rs. fifty :

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. twenty-five :

(c.) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. fifteen :

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. five.

On a certificate authorizing the holder to practise as a Mookhtar—

(a.) In the High Court and any subordinate Court—Rs. twenty-five :

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. sixteen :

(c.) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. eight :

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. four.

11. Pleaders duly admitted and enrolled may appear, plead, and act in any Criminal Court, or before any Board of Revenue, or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars

Pleaders may practise in Criminal Courts and Revenue Offices.

duly admitted and enrolled may appear and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Mookhtars may plead in Criminal Courts.

12. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Any such Pleader or Mookhtar shall also be entitled, with the permission of the presiding Judge or

Officer, on production of his certificate and subject to its conditions, to practise as a Pleader or Mookhtar in all other Courts or Revenue Offices within the limits of the general jurisdiction of the High Court in which he is enrolled.

13. Any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office in the Territories to which this Act extends without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

Uncertificated persons practising as Pleader or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

14. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

15. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

16. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least twenty days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report when made by a Magistrate subor-

dinate to the Magistrate of the District shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Suspension pending investigation.

17. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Sec. 16.

18. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension, or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court to which this Act extends, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Dismissed Pleader or Mookhtar to surrender his certificate.

Of Agents practising in the Revenue Offices.

19. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

20. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

21. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate,

Form of Certificate.

and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

22. The stamp on such certificate, whether original or renewed, shall be of the value of five Rupees.

Value of stamp.

23. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

24. To facilitate the ascertainment of the Local Government to appoint examiners. the last preceding Section, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid and make regulations for conducting the examinations.

25. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, with the permission of the Officer at the head of the Office, on production of the certificate held by him, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory of the Board of Revenue in which he is enrolled.

26. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office who shall be convicted of any criminal offence.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

27. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

28. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his professional duty, the Board shall report the same to the High Court, and the High Court,

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

after making such enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

29. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least twenty days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court, in which he is enrolled, which Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the person charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

30. The Board of Revenue in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

31. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any further inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

32. The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29 or 31.

33. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office suspending or dismissing him. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment to imprisonment in the Civil Jail for a term not exceeding three calendar months.

34. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

35. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provision of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

36. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

Of the Remuneration of Pleaders and Revenue Agents.

37. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts of Civil Judicature, by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

38. The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

39. Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office to which this Act extends, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suits.

Miscellaneous.

40. Any suitor may appear, plead, and act in any suit, appeal on other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

41. The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be submitted to the Local Government for approval, and, when such approval shall have been obtained, they shall be published in three consecutive numbers of the Official Gazette.

42. Every person now or hereafter enrolled as an Advocate on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, subject nevertheless to the rules in force relating to the language in which the Court is to be addressed by Pleaders.

43. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to plead in any Court of British India other than a High Court, subject nevertheless to the rules referred to in the last preceding Section.

44. On and from the first day of January 1866, the provisions contained in Sections eight to nineteen both inclusive shall, *mutatis mutandis*, apply to all persons then and thereafter enrolled as Vakeels on the Roll of any High Court under the Letters Patent constituting such Court.

45. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court other than the High Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the District Judge, who shall forward the application to the High Court, and such Court shall cause the applicant to be enrolled under the provisions of this Act, and shall authorize the said Judge to grant a certificate to the applicant as provided in the eighth, ninth, and tenth Sections.

46. Every order for imposing a fine, which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue, if the order shall have been passed by an Officer subordinate to such Board.

47. This Act shall take effect in the territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to any part of the territories subject to such Government. Every order issued under this Section shall be published in the Official Gazette.

48. From the date on which this Act shall take effect in the territories mentioned or referred to in the last preceding Section, so much of the Regulations, Acts, or Rules for the time being in force in such Territories as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in the Territories in which it shall so take effect.

FIRST SCHEDULE.

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the territories to which this Act extends.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section xxv.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.
Number and date of Acts.	Title.		Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.		The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.		The whole.
Act XX of 1853.	To amend the law relating to Pleaders in the Courts of the East India Company.		The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.		So much of Section lxi. as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Stamp

Pursuant to "The Pleaders and Mookhtars' Act, 1865," I hereby certify that A. B.

Pleader [or Mookhtar], whose place [or places] of business is [or are] at _____ hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [or the Sudder Court of the North-Western Provinces, or as the case may be] and that he is entitled to practise as a Pleader [or Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [or the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, or the Moonsiffs' Courts as the case may be] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [or of the North-Western Provinces, or as the case may be] for the period of one year from the date hereof. Given under my hand this _____ day of _____ 186 .

C. D.

Registrar of the High Court of Judicature at Fort William in Bengal [or of the Sudder Court of the North-Western Provinces, or as the case may be.]

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.

Stamp

Pursuant to "The Pleaders and Mookhtars' Act, 1865," I hereby certify that A. B.

of _____ is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [or of the Lower Provinces, or as the case may be], and in any office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this _____ day of _____ 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [or the Lower Provinces, or as the case may be.]

HOME DEPARTMENT.

No. 2535.

Fort William, the 18th March 1865.

NOTIFICATIONS.

His Excellency the Governor General in Council is pleased, under the 24th and 25th Victoria, Cap. 67, Section 26, to grant the Hon'ble H. S. Maine, an ordinary Member of the Council of the Governor General of India, leave of absence on medical certificate for a period of six months.

No. 2698.

The 21st March 1865.

Mr. William Blunt, of the Civil Service, is permitted to proceed to Europe on furlough for a period of two years, two months, and twenty-three days, from the date of embarkation.

No. 2698 A.

Mr. M. P. Hanken's appointment to be Assistant District Superintendent of Police in the Central Provinces will have effect from the 18th May 1864.

Notification No. 6569, dated 16th December 1864, is hereby cancelled so far as it is at variance with the above orders.

No. 2699.

The 22nd March 1865.

The Governor General in Council is pleased, under Section 9 of Act I of 1849, to delegate authority to the Commissioner of Goruckpore to receive reports and issue orders in cases coming within the said Act.

No. 2700.

The services of Captain E. R. Twyford, District Superintendent of Police, Central Provinces, are placed temporarily at the disposal of the Foreign Department from the 16th instant.

No. 2703.

The 23rd March 1865.

Mr. Henry Minchin Chase, of the Civil Service, is permitted to proceed to Europe on furlough for a period of eighteen months, from the date of embarkation.

No. 2704.

The under-mentioned Officers are appointed, under Act V of 1852, to be Marriage Registrars in the districts noted opposite their respective names:—

Major G. Faithfull, Deputy Commissioner, 1st grade	...	Rangoon.
Lieutenant Colonel D. Brown, Deputy Commissioner, 1st grade	...	Amherst.
Mr. E. O'Riley, Deputy Commissioner, 2nd grade	...	Martaban.
Mr. H. W. Beddy, Deputy Commissioner, Officiating 3rd grade	...	Bassein.
Captain W. P. Harrison, Deputy Commissioner, Officiating 3rd grade	...	Martaban and Tavoy.
Lieutenant C. W. Street, Deputy Commissioner, Officiating 4th grade	...	Tavoy.

No. 2705.

The 24th March 1865.

The Hon'ble C. Steer, a Judge of the High Court, availed himself, on the 20th instant, of the leave of absence granted to him in Notification No. 5761, dated the 24th of November.

No. 2706.

Mr. W. J. R. Carnac, of the Civil Service, has reported his departure from India on board the Steamer "Candia," which vessel was left by the Pilot at sea on the 11th instant.

No. 2707.

Mr. James Duff Ward, of the Civil Service, has reported his departure from India by the "Candia," which vessel was left by the Pilot at sea on the 11th instant.

No. 2708.

The Revd. C. C. Anstey, of the Bengal Ecclesiastical Establishment, has been granted by the Right Hon'ble the Secretary of State an extension of leave for six months on medical certificate.

No. 2709.

Mr. J. Graham having returned from England, resumed his duties as Standing Counsel to Government on the 15th instant.

No. 2710.

The Governor General in Council is pleased to appoint Khwajah Villayut Hossain, of Baitool, in the Central Provinces, an Honorary Magistrate, and to invest him with the powers of a Subordinate Magistrate of the 1st Class, as described in Chapter II, Section 22, of Act XXV of 1861, within the limits of the Tehseel of Baitool.

No. 2711.

The Governor General in Council is pleased to accept Captain E. B. Clay's resignation of his appointment of District Superintendent of Police, 4th Class, in the Central Provinces.

Mr. J. M. Berrill, District Superintendent, 5th Class, to be District Superintendent, 4th Class, from the date on which Captain Clay makes over charge.

Captain T. E. Vandergucht, Assistant District Superintendent, to be District Superintendent, 5th Class, from the same date.

Lieutenant H. A. Hammond, Assistant District Superintendent, 2nd Class, to be Assistant District Superintendent, 1st Class, from the same date.

No. 2714.

The following Notification relative to a Horticultural Show to be held in South Kensington

in December next, is published for general information :

ROYAL HORTICULTURAL SOCIETY,

SOUTH KENSINGTON.

INTERNATIONAL FRUIT SHOW.

From Saturday, 9th December, to Saturday, 16th December 1865, inclusive.

The Gold Medal of the Society will be awarded for the best collection of Fruit and Vegetables produced in the garden of a Sovereign.

2. The Gold Medal of the Society for the best collection of Fruit and Vegetables grown by any Botanic or Horticultural Society in any part of the world.

3. The Gold Medal of the Society for the best and most complete *representative* collection of Fruit and Vegetables from any of the Colonies.

4. First Banksian Gold Medal for the best and most complete *representative* collection from the Presidencies of India.

5. Certificates will be awarded for separate exhibitions of Fruits and Vegetables, either fresh or preserved, from all parts of the world.

6. The first Gold Knightian Medal of the Society to the exhibitor who shall obtain the greatest number of first-class certificates.

7. The second Gold Knightian Medal to the exhibitor who shall obtain the greatest number of second-class certificates.

8. The second Gold Banksian Medal to the exhibitor who shall obtain the greatest number of third-class certificates.

9. The first Gold Banksian Medal to the exhibitor who shall gain the greatest number of marks, counting first, second, and third certificates as three, two, and one marks respectively.

No. 2715.

Lieutenant W. C. Plant, Officiating Deputy Commissioner, 4th grade, received charge of the Office of Superintendent of Police at Sandoway from Mr. H. W. Beddy on the forenoon of the 26th January.

No. 2717.

Sub-Assistant Surgeon C. E. Pyster, in Medical charge of Sandoway, made over charge of his duties to Native Doctor Shaik Abdoollah on the afternoon of the 3rd December last.

No. 2719.

The under-mentioned Civil Assistants and Sub-Assistants of the Topographical Branch, Survey Department, are promoted to the next superior

grades with effect from the 1st April 1865, as follows:—

Mr. H. Hörst	...	From 2nd Civil Assistants to Senior Civil Assistants.
" R. A. Bell	...	
" C. H. T. Neale	...	
" J. F. Baness	...	
" A. C. Chamarett	...	
Mr. H. J. Bolst	...	From Senior Sub-Assistants to 2nd Civil Assistants.
" G. A. McGill	...	
" D. Atkinson	...	
Mr. J. Vanderputt	...	From 1st Class to Senior Sub-Assistants.
" R. W. Chew	...	
Mr. A. J. Wilson	...	From 2nd to 1st Class Sub-Assistant.
Mr. W. Chapman	...	From 3rd to 2nd Class Sub-Assistant.

No. 2721.

Erratum.—In Notification No. 1433, dated the 15th ultimo, for

"Probationary Sub-Assistants to be Junior Sub-Assistant Revenue Surveyors,"

read

"Probationary Sub-Assistants of the 3rd Class to be Sub-Assistants of that Class."

E. C. BAYLEY,

Secy. to the Govt. of India.

No. 2723.

Fort William, the 24th March 1865.

NOTIFICATION.

Under Section 45, Act No. XIII of 1865, the Governor General of India in Council has been pleased to appoint the first day of May 1865 as the date on which the aforesaid Act, entitled an "Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency towns," is to come into operation at Fort William in Bengal, at Madras, and at Bombay respectively.

By order of the Governor General of India in Council,

E. C. BAYLEY,

Secy. to the Govt. of India.

FOREIGN DEPARTMENT.

JUDICIAL.

No. 99.

Fort William, the 22nd March 1865.

His Excellency the Viceroy and Governor General in Council is pleased to extend Section 34 of Act V of 1861 to the Cantonment of Ellichpore, in the Hyderabad Assigned Districts.

No. 101.

The Governor General in Council is pleased, under the provisions of Section 39, to extend Act XXII of 1864 to the Mysore and Bangalore Cantonments in Mysore.

MILITARY.

No. 125.

The 21st March 1865.

His Excellency the Viceroy and Governor General in Council is pleased to direct that the Bhopal Levy for the future be designated the "Bhopal Battalion."

POLITICAL.

No. 254.

The 22nd March 1865.

Captain E. B. Sladen, received charge of the Office of Agent to the Chief Commissioner, British Burmah, at Mandalay, from Dr. C. Williams on the 7th February 1865.

GENERAL.

No. 641.

The 17th March 1865.

The services of Mr. J. W. Quinton, B. A., are placed at the disposal of the Chief Commissioner of Oudh, for employment in that province.

No. 676.

The 21st March 1865.

Lieutenant J. Rutherford, Assistant Superintendent, Revenue Survey, Southern Mahratta country, is appointed Assistant Superintendent in the Mysore Revenue Survey, with effect from 1st February 1865.

No. 678.

Lieutenant W. E. Forbes, Assistant Settlement Commissioner in Oudh, sailed for Madras on the Steamer "Candia," which vessel was left by the Pilot at sea on the 11th instant.

No. 679.

Mr. H. G. Ross, Assistant Commissioner in Oudh, reported his return to his duties on the 8th instant, from sick leave to Europe.

No. 680.

Lieutenant (Brevet Captain) G. E. Fryer, 21st Regiment M. N. I., appointed Officiating Assistant Commissioner in British Burmah in Notification No. 1554, dated 13th December last, is appointed a permanent Assistant Commissioner in the British Burmah Commission from the date he entered on the duties of Assistant Secretary to the Chief Commissioner of British Burmah, viz., 21st January 1865.

No. 681.

Lieutenant W. C. Plant, Assistant Commissioner, 2nd grade, British Burmah, is appointed to be an Officiating Deputy Commissioner, 4th grade, with effect from the 26th January last, the date on which he assumed charge of the Sandoway District from Mr. H. W. Beddy.

No. 683.

Lieutenant G. A. Strover, Assistant Commissioner, 3rd grade, British Burmah, is appointed to officiate temporarily as Magistrate and Deputy Commissioner of the 4th grade at Akyab.

Lieutenant W. G. Hughes, Assistant Commissioner, 3rd grade, made over charge of his Office in the Kankareit Sub-Division of the Amherst District to Moung O, Extra Assistant Commissioner, 3rd grade (Myoke), on the forenoon of the 2nd February 1865, and received charge of the Office of Assistant Commissioner, Martaban Sub-Division, from Lieutenant G. A. Strover, on the forenoon of the 9th idem.

No. 690.

The 22nd March 1865.

The services of Mr. Dinshajee Sorabjee, Officiating Extra Assistant Commissioner, 4th Class, in the Central Provinces, are placed at the disposal of the Resident at Hyderabad for employment in Berar.

His Excellency the Viceroy and Governor General in Council is pleased to appoint Shaikh Boodun to officiate as an Extra Assistant Commissioner of the 4th Class in the room of Moonshee Buktawur Singh, on leave.

No. 691.

Messrs. Dinshajee Sorabjee, Officiating Extra Assistant Commissioner, Central Provinces, and Atmaram Bhicajee, Tehseeldar, Akola District, are appointed Extra Assistant Commissioners in the Hyderabad Assigned Districts.

No. 693.

Mr. A. R. Hutton is appointed to be an Extra Assistant Commissioner of the 3rd Class, in Oudh, with effect from the 9th January 1865.

No. 695.

The services of Mr. M. S. Champneys, c. s., are placed at the disposal of the Punjab Government.

No. 698.

Mr. E. Bickers, Extra Assistant Commissioner of Lucknow, availed himself, on the evening of the 9th instant, of the one month's privilege leave granted to him in G. O. No. 568, dated the 13th idem.

No. 710.

The 23rd March 1865.

His Excellency the Governor General in Council is pleased to appoint Mr. D. F. Lonsdale, Collector of Customs at Thayetmyo, to be an Assistant Commissioner of the 3rd grade, in British Burmah, from this date.

No. 713.

Assistant Surgeon T. M. Lownds, resumed medical charge of the Rajpootana Agency, and his

duties as Superintendent of the Raj Dispensaries from Assistant Surgeon W. J. Moore, on the afternoon of the 6th instant.

No. 717.

The 24th March 1865.

Mr. R. S. H. Haldane, Extra Assistant Commissioner in Oudh, availed himself, on the 1st instant, of the three months' privilege leave granted him in G. O. No. 337, dated 10th ultimo.

No. 718.

Mr. H. W. Beddy, Officiating Deputy Commissioner, 3rd grade, British Burmah, assumed charge of the Bassein District from Captain F. N. Bayly, Assistant Commissioner, 1st grade, on the forenoon of the 11th ultimo.

No. 719.

Lieutenant H. R. Spearman, Assistant Commissioner, 3rd grade, in British Burmah, made over charge of the Prome District Treasury at Thayetmyo to Mr. DeCourcy Ireland, Assistant Commissioner, 3rd grade, on the afternoon of the 7th ultimo, and received charge of the office of Assistant Commissioner, 3rd grade, at Sittang, on the forenoon of the 21st idem.

No. 720.

Mr. A. F. Millet, appointed to the Oudh Commission in G. O. No. 492, dated 2nd instant, reported his arrival at Lucknow on the 15th instant, and is posted to the Oonao District.

A. COLVIN,

Offg. Under Secy. to the Govt. of India.

FINANCIAL DEPARTMENT.

No. 1606.

Fort William, the 22nd March 1865.

NOTIFICATIONS.

Mr. L. C. Probyn, Deputy Auditor and Accountant General, Punjab, has been allowed by the Right Hon'ble the Secretary of State for India an extension of leave for six months on medical certificate.

No. 1627.

Mr. H. A. Mangles resumed charge of the office of Civil Pay Master, Bombay, from Mr. P. Gunoba, in the forenoon of the 8th March 1865.

E. H. LUSHINGTON,
Secy. to the Govt. of India.

MILITARY DEPARTMENT.*Fort William, the 18th March 1865.*

No. 287 of 1865.—The services of Major J. C. Dickson, of the late 33rd Native Infantry, are placed at the disposal of the Public Works Department as a special and temporary arrangement.

The 20th March 1865.

No. 288 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointment:—

PUNJAB IRREGULAR FORCE.*4th Sikh Infantry.*

Assistant Surgeon R. Mantell, M. B., to the medical charge, temporarily, during the absence on sick leave of Surgeon Webb, or until further orders.

No. 289 of 1865.—The services of Major T. Rat-tray, of the Bengal Staff Corps, Deputy Inspector General of Police in the Bengal Dooars, are placed at the disposal of the Commander-in-Chief for appointment to a post under His Excellency's orders.

No. 290 of 1865.—His Excellency the Governor General in Council is pleased to make the following temporary promotion and appointment:—

Quarter Master General's Department.

Captain H. Maxwell, Deputy Assistant Quarter Master General, to officiate as Assistant Quarter Master General during the absence on sick leave to Europe of Major F. Roberts, v. c., or until further orders.

Lieutenant C. P. Stone, of Her Majesty's 77th Foot, to officiate as Deputy Assistant Quarter Master General, vice Captain Maxwell.

No. 291 of 1865.—The services of Captain C. Batchelor, late 3rd European Light Cavalry, 2nd in Command and Squadron Officer, 18th Bengal Cavalry, are placed at the disposal of the Government of the Punjab.

No. 292 of 1865.—Captain J. C. Wood, of the Bengal Staff Corps, is allowed leave of absence for ten days, from such date as he may have availed himself of it, to visit Bombay preparatory to proceeding to Europe on medical certificate.

No. 293 of 1865.—With reference to the Notification from the Home Department, No. 2452 of

the 11th March 1865, the services of 2nd Captain F. FitzRoy, of the Royal Artillery, Superintendent of the Pegu Survey, are placed at the disposal of His Excellency the Commander-in-Chief from the date on which he made over charge of his office.

No. 294 of 1865.—*Erratum.*—In Government General Order No. 166 of the 14th February 1865, admitting certain men of Regiments attached to the "Dooar Field Force," for Sepoy "Gooru Beer" read Sepoy *Goon Beer*. Order Books to be corrected accordingly.

No. 295 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Surgeon William George Ward Clemenger, A. B. and M. B., of the Medical Department, in medical charge of the 5th Goorkha Regiment.	} For 20 months, under the new Regulations.
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Lieutenant Thomas Truman Oliphant, of the late 5th European Regiment, Doing- duty Officer, 1st Punjab In- fantry.	} For 20 months, under the new Regulations.
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No. 296 of 1865.—The under-mentioned Soldier of Her Majesty's service is permitted to reside and draw his pay in India as an Out-pensioner of Chelsea Hospital according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of his pension:—

Private William Henry Dean, of Her Majesty's 51st Light Infantry.

No. 297 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Captain John Beresford Smyly, of the Bengal Staff Corps, Assistant Commissioner, Punjab.	} For 20 months.
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Lieutenant Ellis Burroughes Ward, of the late 48th Regi- ment Native Infantry, Dis- trict Superintendent of Police, Baraich.	} For 20 months, under the new Regulations.
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The 21st March 1865.

No. 298 of 1865.—The services of Lieutenant, W. Tweedie, of the Bengal Staff Corps, Adjutant 1st Cavalry Hyderabad Contingent, are placed temporarily at the disposal of the Foreign Department, with effect from the 16th instant.

No. 299 of 1865.—The following promotions are made in the under-mentioned Corps of the Native Infantry :—

Corps.	Rank and Names.	To what rank promoted.	From what date.	In whose room.
1st Goorkha Regiment Light Infantry	Jemadar Jewa Khawas ...	Subadar	4th June 1861	Dhun Sing Gurung, invalided.
Ditto	Havildar Gungaram Bhist	Jemadar	Ditto	Jewa Khawas, promoted.

This cancels the promotion of Jemadar Jewa Khawas in room of Johur Sing Thappa, of the 1st Goorkha Light Infantry, announced in Government General Order No. 105 of the 28th January 1862.

No. 300 of 1865.—The under-mentioned Officers have reported their return from England :—

*Date of arrival
at Fort William.*

Major H. A. Brownlow, of the Royal Engineers, Executive Engineer, 1st Class, Department of Public Works. } 14th March 1865.
Major J. Leven, of the Bengal Staff Corps, Deputy Assistant Commissary General. }

No. 301 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Deputy Inspector General of Hospitals Robert Bancroft Kinsey, F. R. C. S., of the Medical Department. } For 20 months, under the new Regulations.

No. 302 of 1865.—The under-mentioned Soldier of Her Majesty's service is permitted to reside and draw his pay in India as an Out-pensioner of Chelsea Hospital, according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of his pension :—

Gunner James Brown, of B Battery, 19th Brigade Royal Artillery.

No. 303 of 1865.—At the recommendation of His Excellency the Commander-in-Chief, grounded on the long and meritorious services of the under-mentioned Native Officer, His Excellency the Governor General in Council is pleased to sanction the Brevet Pay of his rank being continued to him, with effect from the date of his transfer to the Invalid Pension Establishment :—

Subadar Major Phekoo Lall, late of the 3rd Battery, 25th Brigade Royal Artillery.

The 22nd March 1865.

No. 304 of 1865.—Captain H. B. Chalmers, Assistant Commissary General, is allowed leave of absence from the 1st to the 10th April 1865, to visit the Presidency, preparatory to applying for leave of absence on medical certificate to Europe.

No. 305 of 1865.—The under-mentioned Officer of the Royal Engineers, who has been placed under orders for duty in the Bengal Presidency, reported his arrival on the date specified below :—

*Date of arrival
at Fort William.*

Lieutenant Thomas Hungerford Holdich. } 3rd March 1865.

No. 306 of 1865.—The under-mentioned Officers have reported their departure on the dates specified opposite to their respective names :—

Assistant Surgeon G. C. Chesnaye, of the Medical Department, 2nd Assistant Surgeon, Allahabad General Hospital, on leave for twenty months, Government General Order No. 192 of the 21st February 1865. } "Nemesis," 25th February 1865.

Lieutenant Colonel G. Jackson, of the Bengal Staff Corps, Commandant 2nd Bengal Cavalry, on leave for twenty months, Government General Order No. 212, of the 28th February 1865. } "Arabia," 3rd March 1865.

Surgeon T. Atchison, of the Medical Department, on furlough for two years, Government General Order No. 123 of the 3rd February 1865. }

Lieutenant F. V. Eyre, of the Royal Artillery, Commissary of Ordnance, 3rd Class, on leave for twenty months, Government General Order No. 150 of the 9th February 1865. } "Cashmere," 4th March 1865.

Conductor J. Lynch, of the Ordnance Commissariat Department, attached to the Office of the Examiner, Ordnance Accounts, on leave for twenty months, Government General Order No. 4 of the 3rd January 1865. } "City of Paris," 5th March 1865.

Sub-Conductor C. Montagu, of the Department of Public Works, on leave for one year, Government General Order No. 192 of the 21st February 1865.

Conductor A. Simmons, of the Army Commissariat Department, on leave for twenty months, Government General Order No. 192 of the 21st February 1865.

Lieutenant Colonel J. P. Beadle, of the Royal Engineers, Chief Engineer and Secretary to the Government of Bengal, Public Works Department, on leave for twenty months, Government General Order No. 130 of the 3rd February 1865.

Captain (Brevet Major) M. J. Brander, of the late 40th Regiment Native Infantry, Deputy Assistant Commissary General, on leave for twenty months, Government General Order No. 226 of the 3rd March 1865.

Major J. Tickell, of the Bengal Staff Corps, on leave for twenty months, Government General Order No. 205 of the 27th February 1865.

Captain C. D. Newmarch, of the Royal Engineers, Chief Engineer, British Burmah, and Secretary to the Chief Commissioner, in the Public Works Department, on leave for twenty months, Government General Order No. 124 of the 3rd February 1865.

Captain J. B. Saunders, of the late 4th European Light Cavalry, Brigade Major, Allahabad, on furlough for three years, Government General Order No. 233 of the 6th March 1865.

Captain T. G. Montgomerie, of the Royal Engineers, Astronomical Assistant, Great Trigonometrical Survey of India, on leave for twenty months, Government General Order No. 226 of the 3rd March 1865.

"City of Nan-
kin,"
9th March 1865.

"Candia,"
11th March
1865.

Assistant Surgeon J. Picthall, M. D., L. R. C. P., of the Medical Department, on leave for eighteen months, Government General Order No. 236 of the 7th March 1865.

"Candia,"
11th March
1865.

No. 307 of 1865.—With reference to the Notification issued by the Government of the North-Western Provinces, No. 895 A, dated 16th instant, the services of Assistant Surgeon H. C. Cutcliffe, F. R. C. S., Civil, Deyrah Dhoon, are placed at the disposal of the Commander-in-Chief for appointment to a post under His Excellency's orders.

The 23rd March 1865.

No. 308 of 1865.—The following orders issued by the Government of Bombay are confirmed :—

No. 154, dated 15th March 1865.—Granting leave of absence to Europe on medical certificate to Lieutenant A. FitzHugh, of the Bengal Staff Corps, Wing Officer, 4th Regiment Sikh Infantry.

For 20 months,
embarking at
Kurrachee.

No. 156, dated 15th March 1865.—Granting leave of absence to Europe on medical certificate to Assistant Apothecary J. N. White, of the Subordinate Medical Department.

For 2 years,
embarking at
Kurrachee.

No. 309 of 1865.—His Excellency General Sir Hugh Rose, G. C. B., K. S. I., having embarked for England, General Sir William R. Mansfield, K. C. B., appointed to be Commander-in-Chief of the Forces in the East Indies, as announced in Government General Order No. 269 of the 15th instant, has assumed Command from this date.

Ordered that all Returns of the Army be made in the usual manner to General Sir W. R. Mansfield, K. C. B., as Commander-in-Chief in India.

The 24th March 1865.

No. 310 of 1865.—The following promotions are made, subject to Her Majesty's approval:—

Corps.	Rank and Names.	To what rank promoted.	From what date.	In whose room.
Cadre of the late 51st N. I.	Captain (Lieutenant Colonel in Staff Corps) Samuel Hugh James Davies.	Major ...	27 Oct. 1864	Major (Brevet Colonel) S. A. Abbott, Cadre of late 51st N. I., retired.
	Lieutenant (Brevet Captain) Edward Pitches Wilson Ripley.	Captain ...		
Bengal Infantry ...	Major (Lieutenant Colonel in the Staff Corps) Robert Renny, from Cadre of late 47th N. I.	Lieut. Colonel	12 Mar. 1865	Lieut. Colonel J. L. Walker, Bengal Infantry, deceased.
Cadre of the late 47th N. I.	Captain (Lieutenant Colonel in the Staff Corps) Robert Campbell.	Major ...		
	Lieutenant (Brevet Captain) William Gordon.	Captain ...		
Bengal Infantry ...	Major (Brevet Lieutenant Colonel) Henry Richard Shelton, from Cadre of the late 38th N. I.	Lieut. Colonel	12 Mar. 1865	Lieut. Colonel R. Renny, Staff Corps, removed from the list of Regimental Lieut. Colonels.
Cadre of the late 38th N. I.	Captain (Major in the Staff Corps) Julius Bentall Dennys.	Major ...		
	Lieutenant (Captain in the Staff Corps) Montagu Mitchell Procter	Captain ...		

No. 311 of 1865.—The under-mentioned Surgeons of the Medical Department are promoted to the rank of Surgeon Major, under the provision of Government General Order No. 507 of the 20th June 1864, subject to Her Majesty's approval:—

Rank and Names.	From what date.
Surgeon John Nicholas Tressider ...	1st March 1865.
„ St. George Wade Tucker, M.D.	14th „ „
„ Charles Manners Smith ...	19th „ „

No. 312 of 1865.—The under-mentioned Officer having completed twenty years' service, six years of which were on permanent staff employ, to be

Major from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval:—

Bengal Staff Corps.

Captain F. K. Bacon ... 19th March 1865.

No. 313 of 1865.—The under-mentioned Officer having completed twelve years' service, four years of which were on permanent staff employ, to be Captain from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval:

Bengal Staff Corps.

Lieutenant (Brevet Captain) } 23rd March
B. R. Chambers ... } 1865.

No. 314 of 1865.—The following promotions by Brevet are made under the operation of Government General Order No. 632 of the 4th August 1864, subject to Her Majesty's approval:—

BREVET.

Corps.	Rank and Names.	Date from which entitled to the rank of Lieutenant Colonel.
Cadre of late 64th N. I.	<i>To be Lieutenant Colonel.</i>	
	Major Harry Elliott Young ...	9th March 1865.
Cadre of late 34th N. I.	<i>To be Majors.</i>	
	Captain Abraham Charles Bunbury ...	1st January 1864.
Cadre of late 9th N. I.	Captain Francis Henry Hammer ...	9th December 1864.
	Captain Henry John Allan ...	19th March 1865.

No. 315 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on urgent private affairs :—

Captain Samuel Boulderson, of the late 5th European Light Cavalry. } For 6 months, without pay.

No. 316 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Surgeon Major John Barton Harrison, M. D., of the Medical Department, attached to the 27th (Punjab) Regiment Native Infantry ... } For 20 months, under the new Regulations.

No. 317 of 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

Lieutenant (Brevet Captain) George Bowen Cassan Simpson, of the late 23rd Regiment Native Infantry, doing duty Officer, 14th Bengal Cavalry (now Brigade Major, Meerut). } 19th February 1861.

H. W. NORMAN, Colonel,
Secy. to the Govt. of India.

PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 96.

Fort William, the 20th March 1865.

NOTIFICATIONS.

Corporal J. Herliby, Bombay Sappers and Miners, is appointed to the Public Works Department as an Overseer of the 1st grade, with effect from the 25th January 1865, and posted to Hyderabad.

No. 97.

Mr. S. W. Nugent, Assistant Engineer, 1st grade, attached to the Punjab, having been permitted by the Hon'ble the Secretary of State to resign his appointment in the Public Works Department, he is struck off the strength of the Public Works Establishments, with effect from the 12th January 1865.

No. 98.

Sergeant J. Robinson, Overseer, 1st grade, Oudh, is remanded to Regimental duty for misconduct.

No. 99.

Mudwa Rao, temporary Supervisor, attached to the Public Works Department, Mysore, has been granted fifteen days' privilege leave from the date he availed himself of it.

No. 100.

The 22nd March 1865.

Captain W. H. Burton, R. E., is re-appointed to the Public Works Department as a Special Assistant Engineer and posted to the Berar Division, Hyderabad, and the portion of Notification No. 66, dated 28th February 1865, transferring Captain F. G. S. Parker from the Punjab to Hyderabad, is hereby cancelled.

No. 101.

Gunner W. E. Lippert, Overseer, 1st grade, attached to the Public Works Department, Mysore, has been granted one month's leave from such date as he might avail himself of the same.

No. 102.

Gunnesh Gopaul, Overseer, 2nd grade, Rajpootana Circle, is permitted to resign his appointment in the Public Works Department.

No. 103.

In continuation of Notification No. 369 of the 23rd December 1864, Sergeant J. Edmund, R. A., Accountant, 4th grade, attached to the Office of the Accountant General, Public Works Department, is granted an extension of three months' leave on private affairs without pay.

No. 104.

The 23rd March 1865.

Lieutenant Colonel C. H. Dickens, R. A., Chief Engineer, 2nd Class, and Secretary, in the Public Works Department, to the Chief Commissioner, Central Provinces, is appointed Secretary to the Government of India, in the Public Works Department, vice Colonel R. Strachey, R. E., who is permitted to resign his appointment on the occasion of his proceeding to Europe on furlough.

Lieutenant Colonel Dickens assumed charge of the Office on the afternoon of the 22nd March 1865.

E. C. S. WILLIAMS, Captain, R. E.
Under Secy. to the Govt. of India.

No. 105.

The 24th March 1865.

Mr. E. Durrant, Supervisor, 1st grade, attached to the Rajpootana Circle, Public Works, is posted to the Mhow Division.

No. 106.

Captain B. J. C. Prior, M. S. C., Officiating Controller of Public Works Accounts, Central Provinces, having resumed charge of his duties on the forenoon of the 13th March 1865, the unexpired portion of the leave granted to him in Public Works Department Notification No. 12 of 17th January last, is cancelled.

No. 107.

Major J. F. Tennant, R. E., Executive Engineer, Arracan Division, British Burmah, resumed charge of his duties on the 27th February 1865.

No. 108.

Lieutenant Colonel J. E. T. Nicolls, R. E., made over charge of the office of the Chief Engineer and Secretary to Chief Commissioner of Oudh, on the afternoon of the 9th March 1865, to Mr. W. D. Bruce, Assistant to the Chief Engineer and Assistant Secretary to the Chief Commissioner.

C. H. DICKENS, *Lieut. Col., R. A.,**Secy. to the Govt. of India.*

ADVERTISEMENTS.

NOTICE.

The undersigned having arranged with his creditors, has, with the permission of the Court, withdrawn his petition of Insolvency.

WM. C. STEWART.

CALCUTTA,
14th March 1865. }

NOTICE.

Mr. W. C. Stewart having obtained an order of the Court for the withdrawal of his petition of Insolvency, I have no further claim against his Estate.

JOHN COCHRANE,
Official Assignee.

CALCUTTA,
The 11th March 1865. }

Government Promissory Note No. 333 of 23889 of 1859-60, for Rupees 1,000, at 5½ per cent., belonging to me, has been destroyed by acid.

RAMCOOMAR CHATTERJEE,
Head Asst., Barrackpore Exe. Comm. Office.
BARRACKPORE,
The 6th March 1865. }

PRELIMINARY ANNOUNCEMENT.

IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

By order of the Mortgagees,

The well-known Indigo Factories called the Allumchund Concern, at Allahabad, with valuable Talook property attached thereto and Koontee crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontee crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Moran and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

Statement of Government Promissory Notes enfaced throughout India, for Payment of Interest in London, showing the total Amount outstanding up to 28th February 1865, according to the Registers received in this Office.

	4 per cent. of 1824-25.	4 per cent. of 1828-29.	4 per cent. of 1832-33.	4 per cent. of 1835-36.	4 per cent. of 1842-43.	4 per cent. of 1854-55.	5 per cent. Public Works of 1854-55.	5 per cent. of 1856-57.	5½ per cent. of 1859-60.	3½ per cent. of 1853-54.	1½ per cent. of 1856-57.	Total Rs.
Amount on which Interest is now payable in London	53,000	2,300	25,59,500	22,92,000	96,04,000	66,44,100	32,39,600	4,80,03,300	2,41,22,600	17,600	16,000	9,65,54,000

FORT WILLIAM;
LOAN OFFICE,
The 21st March 1865. }

R. P. HARRISON,
Acctt. Genl. to the Govt. of India.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, APRIL 1, 1865.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th March 1865, and is hereby promulgated for general information :—

Act No. X of 1865.

An Act to amend and define the Law of Intestate and Testamentary Succession in British India.

Whereas it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India ; It is enacted as follows :—

PART I.

Preliminary.

1. This Act may be cited as "The Indian Short Title. Succession Act, 1865."

2. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

3. In this Act, unless there be something Interpretation repugnant in the subject or Clause. context,—

Words importing the singular number include the plural: words importign the plural number include the singular ; and words importing the male sex include females.

"Person" includes any Company or Association, or body of persons, whether incorporated or not.

"Year" and "month" respectively mean a year and month reckoned according to the British Calendar.

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Moveable property" means property of every description except immoveable property.

"Province" includes any division of British India having a Court of the last resort.

"British India" means the territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap 106, other than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person.

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

4. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

PART II.

Of Domicile.

5. Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Illustrations.

(a.) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(b.) A, an Englishman having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

6. A person can only have one domicile for the purpose of succession to his moveable property.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child in the country in which his father was domiciled at the time of the father's death.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin. **9.** The domicile of origin prevails until a new domicile has been acquired.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Service, or in the exercise of any profession or calling.

Illustrations.

(a.) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(b.) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(c.) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(d.) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(e.) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(f.) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(g.) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

11. Any person may acquire a domicile in British India by making and depositing in some Office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

12. A person who is appointed by the Government of one country to be

Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.

by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

13. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

16. The wife's domicile during the marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

17. Except in the cases above provided for, a person cannot during minority acquire a new domicile.

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

19. If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.

Of Consanguinity.

20. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

21. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

22. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

23. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his lifetime, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

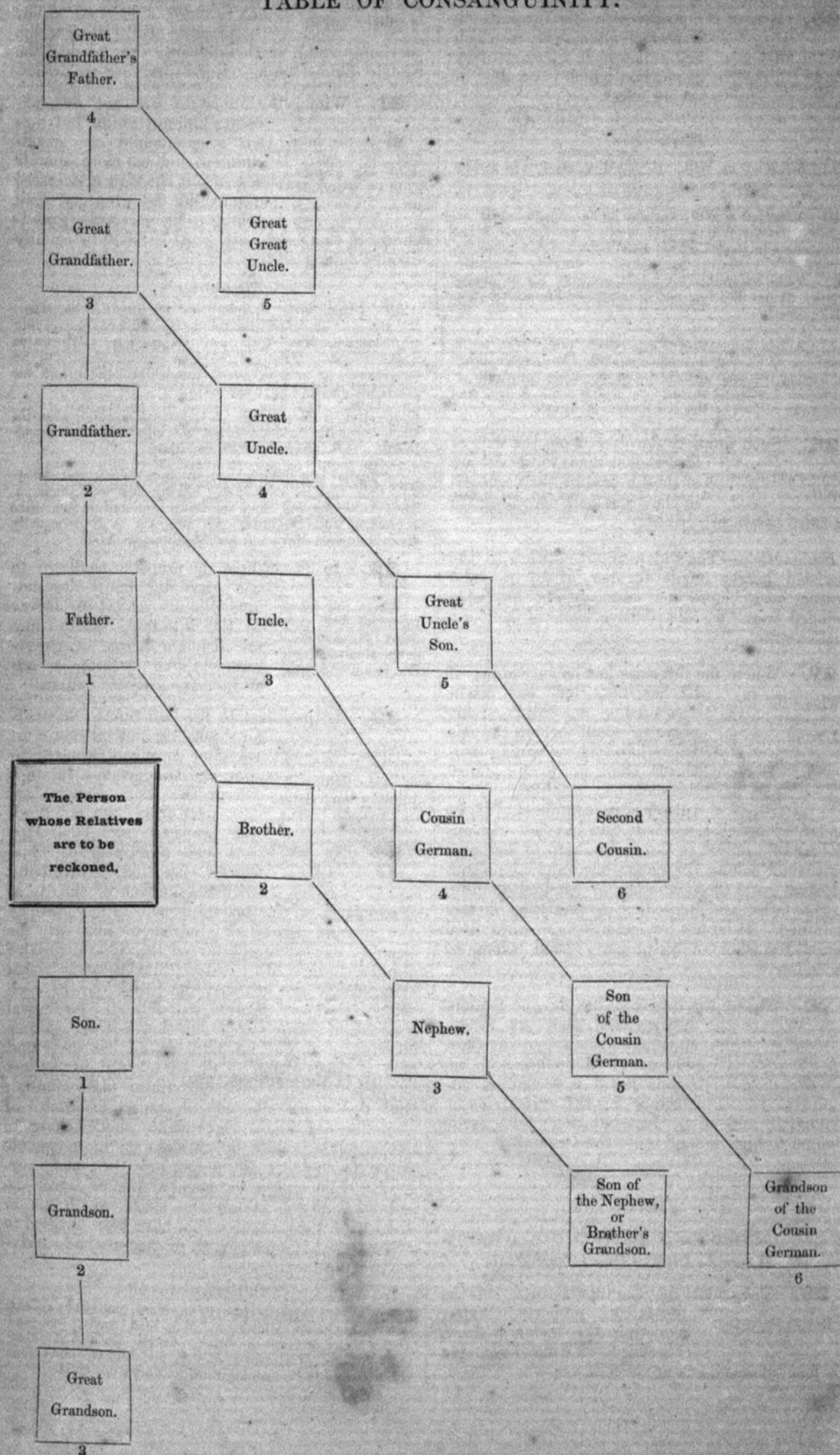
24. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, *i. e.*, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great uncle, for they are both in the sixth degree of kindred.

TABLE OF CONSANGUINITY.



PART IV.

Of Intestacy.

25. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

As to what property a deceased person is considered to have died intestate.

Illustrations.

(a.) A has left no Will. He has died intestate in respect of the whole of his property.

(b.) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(c.) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(d.) A has bequeathed 1,000*l* to B, and 1,000*l* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000*l* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l*.

26. Such property devolves upon the wife or husband, or upon those who are

Devolution of such property. of the kindred of the deceased, in the order and according to the rules herein prescribed.

Explanation.—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

27. Where the intestate has left a widow, if

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred. he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

28. Where the intestate has left no widow, his property shall go to his

Where the intestate has left no widow, and where he has left no kindred. lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained: and if he has left none who are of kindred to him, it shall go to the Crown.

PART V.

Of the Distribution of an Intestate's Property.

(a) *Where he has left lineal descendants.*

29. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Rules of distribution.

30. Where the intestate has left surviving

Where the intestate has left a child or children only. him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

31. Where the intestate has not left surviving him any child, but has

Where the intestate has left no child, but a grandchild or grand-children. left a grandchild or grandchildren, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

Illustrations.

(a) A has three children, and no more; John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(b) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(c) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

32. In like manner the property shall go to the surviving lineal descend-

Where the intestate has left only great grandchildren or lineal descendants in a remoter degree. ants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

33. If the intestate has left lineal descend-

Where the intestate leaves lineal descendants not all in the same degree of kindred to him, and those through whom the more remote are dead. ants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(a) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(b) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(c) A has three children, John, Mary, and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(b) *Where the Intestate has left no lineal descendants.*

34. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows:—

Rules of distribution where the intestate has left no lineal descendants.

35. If the intestate's father be living, he shall succeed to the property.
Where intestate's father is living.

36. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.
Where intestate's father is dead, but his mother, brothers and sisters are living.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

37. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's life-time are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

38. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the share which their respective parents would have taken if living at the intestate's death.
Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

Illustration.

A the intestate leaves no brother or sister, but leaves, his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

39. If the intestate's father is dead, but the intestate's mother is living and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.
Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

40. Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the share which their respective parents would have taken if living at the intestate's death.
Where intestate has left neither lineal descendant nor father nor mother.

41. If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.
Where intestate has left neither lineal descendant, nor parent, nor brother nor sister.

Illustrations.

(a) A, the intestate, has left a grandfather and a grandmother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(b) A, the intestate, has left a great-grandfather or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(c) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(d) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

42. Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.
Children's advancements not to be brought into hotch-pot.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

43. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.
Rights of widower and widow respectively.

44. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

45. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

PART VII.

Of Wills and Codicils.

46. Every person of sound mind and not a minor may dispose of his property by Will.

Persons capable of making Wills.

Explanation 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.

Explanation 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

Explanation 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation 4.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(a) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favour it would be proper that he should make his Will. A cannot make a valid Will.

(b) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(c) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

47. A father whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

48. A Will or any part of a Will, the making of which has been caused by fraud, coercion or importunity as takes away the free agency of the testator, is void.

Illustrations.

(a) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make

a Will in his, A's favour; such Will has been obtained by fraud, and is invalid.

(b) A by fraud and deception prevails upon the testator to bequeath a legacy to him. The bequest is void.

(c) A, being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(d) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(e) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(f) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(g) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(h) A with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

49. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

Will may be revoked or altered.

PART VIII.

Of the Execution of unprivileged Wills.

50. Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules:—

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

51. If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

Incorporation of papers by reference.

PART IX.

Of Privileged Wills.

52. Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

Illustrations.

(a) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(b) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(c) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(d) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(e) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(f) A, a mariner serving on a Military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

53. Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules:—

First.—The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument, that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

Fifth.—If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his life-time, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

PART X.

Of the Attestation, Revocation, Alteration and Revival of Wills.

54. A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

55. No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

56. Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

57. No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Illustrations.

(a) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(b) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

58. No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless

such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

59. A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

60. No unprivileged Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

PART XI.

Of the Construction of Wills.

61. It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

62. For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(a) A, by his Will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(b) A by his Will leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(c) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

63. Where the words used in the Will to designate or describe a legatee, Misnomer or mis-description of object. or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(a) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(b) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(c) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(d) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(e) The testator, having six grandchildren, make a bequest to "his six grandchildren," and proceeding to mention them by their Christian names, mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(f) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

64. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

65. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(b) The testator bequeaths to A "his zamindari of Rampore." He had an estate at Rampore, but it was a taluk and not a zamindari. The taluk passes by this bequest.

66. If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under the sixty-fifth Section are to be considered as struck out of the Will.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(b) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighas of land." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

67. Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Extrinsic evidence admissible in case of latent ambiguity.

Illustrations.

(a) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(b) A, by his Will, leaves to B "his estate called Sultanpur Khurd." It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

68. Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

Illustrations.

(a) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 rupees to "his aunt Caroline" and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth Section.

(b) A bequeaths 1,000 rupees to _____, leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(c) A bequeaths to B _____ rupees, or "his estate of _____." Evidence is not admissible to show what sum or what estate the testator intended to insert.

69. The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

Meaning of any clause to be collected from entire Will.

Illustrations.

(a) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(b) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

70. General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

When words may be understood in a restricted sense, and when in a sense wider than usual.

Illustrations.

(a) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(b) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(c) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

71. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

Where a clause is open to two constructions, that which has some effect is to be preferred.

72. No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

No part of Will to be rejected, if reasonable construction can be put on it.

73. If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Interpretation of words repeated in different parts of Will.

74. The intention of the testator is not to be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Testator's intention to be effectuated as far as possible.

Illustration.

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth Section, but it shall take effect so far as regards the gift to C D.

75. Where two clauses or gifts in a Will are

The last of two irreconcilable, so that they inconsistent clauses cannot possibly stand together, the last shall prevail.

Illustrations.

(a) The testator by the first clause of his Will leaves his estate at Rámnagar "to A," and by the last clause of his Will leaves it "to B and not to A." B shall have it.

(b) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

76. A Will or bequest not expressive of any definite intention is void for uncertainty.*Illustration.*

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

77. The description contained in a Will, of

Words describing property answer to property answering that description at testator's death. shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

78. Unless a contrary intention shall appear

Power of appointment by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

79. Where property is bequeathed to or for

Implied gift to the benefit of such of certain objects of a power in default of appointment shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

80. Where a bequest is made to the "heirs,"

Bequest to "heirs," &c., of a particular person without qualifying terms. "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualify-

ing terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(a) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(b) A bequeaths 10,000 rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(c) A leaves his property to B; but if B dies before him, to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate leaving assets for the payment of his debts independently of such property.

(d) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

81. Where a bequest is made to the "representatives," or "legal representatives," or "legal representatives," or "personal representatives," or "executors or administrators" of a particular person, and the class so

Bequest to "representatives," &c., of a particular person. designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

Illustration.

(a) A bequest is made to the "legal representatives of A." A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

82. Where property is bequeathed to any person, he is entitled to the

Bequest without words of limitation. whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

83. Where property is bequeathed to a person, with a bequest in the alternative to another person or to

Bequest in the alternative. a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

Illustrations.

(a) A bequest is made to A or to B. A survives the testator. B takes nothing.

(b) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(c) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(d) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(e) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(f) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(g) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

84. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

Illustrations.

(a) A bequest is made—

- to A and his children,
- to A and his children by his present wife,
- to A and his heirs,
- to A and the heirs of his body,
- to A and the heirs male of his body,
- to A and the heirs female of his body,
- to A and his issue,
- to A and his family,
- to A and his descendants,
- to A and his representatives,
- to A and his personal representatives,
- to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(b) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(c) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

85. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

86. The word "children" in a Will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-german" apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent, of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

87. In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

Illustrations.

(a) A, having three children, B, C, and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(b) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(c) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(d) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(e) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the Will acquired the reputation of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(f) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(g) A makes a bequest in favour of the child to be born of a woman, who never becomes his wife. The bequest is void.

(h) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

88. Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will:—

First.—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same Will or one and the same Codicil purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules, the word Will does not include a Codicil.

Illustrations.

(a) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement, the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(b) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(c) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(d) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(e) A, by his Will, bequeaths to B 5,000 rupees, and by a Codicil to the Will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(f) A, by one Codicil to his Will, bequeaths to B 5,000 rupees, and by another Codicil, bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(g) A, by his Will, bequeaths "500 rupees to B because she was his nurse," and in another part of the Will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive 1,000 rupees.

(h) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also, in another part of the Will, an annuity of 400 rupees. B is entitled to both legacies.

(i) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

89. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(a) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(b) A makes his Will, with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(c) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

90. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Illustration.

A by his Will bequeaths certain legacies, one of which is void under the hundred and fifth Section, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamindari, which belongs to him at the time of his death. B is entitled to the two legacies and the zamindari as part of the residue.

91. If a legacy be given in general terms, without specifying the time, legacy in general when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

92. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

Illustrations.

(a) The testator bequeaths to B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(b) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(c) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(d) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(e) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(f) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

93. If a legacy be given to two persons jointly, and one of them die before the testator, the other joint legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

94. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Illustration.

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

95. Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

96. Where a bequest shall have been made to

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Illustration.

A makes his Will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

97. Where a bequest is made to one person

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

98. Where a bequest is made simply to a

Survivorship in case of bequest to a described class.

described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(a) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(b) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(c) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D; and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(d) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E and F, were born to B. C and E died in the life time of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(e) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D and E have survived B. One-third of A's lands belongs to D, E, and the representatives of C, in equal shares.

(f) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(g) A bequeaths 1,000 rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(h) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.*Of void Bequests.***99.** Where a bequest is made to a person by

Bequest to a person by a particular description, who is not in existence at the testator's death.

a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

Illustrations.

(a) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(b) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(c) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son; afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(d) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(e) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

100. Where a bequest is made to a person

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(a) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(b) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(c) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(d) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

101. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Illustrations.

(a) A fund is bequeathed to A for his life; and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B, and the minority of the sons of B. The bequest after B's death is void.

(b) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(c) A fund is bequeathed to A for his life, and after his death to B for his life; with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(d) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

102. If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

Bequest to a class, some of whom may come under the rules in the Sections 100, 101.

Illustrations.

(a) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(b) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (a). The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

103. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Bequest to take effect on failure of bequest void under Sections 100, 101, or 102.

Illustrations.

(a) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(b) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

104. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Effect of direction for accumulation.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(a) The Will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(b) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(c) The Will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(d) The Will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(e) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

105. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

Illustration.

A having a nephew makes a bequest by a Will not executed nor deposited as required—

- For the relief of poor people;
- For the maintenance of sick soldiers;
- For the erection or support of a hospital;
- For the education and perferment of orphans;
- For the support of scholars;
- For the erection or support of a school;
- For the building and repairs of a bridge;
- For the making of roads;
- For the erection or support of a church;
- For the repairs of a church;
- For the benefit of ministers of religion;
- For the formation or support of a public garden.

All these bequests are void.

PART XIII.

Of the Vesting of Legacies.

106. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(a) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(b) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(c) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(d) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(e) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(f) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B, and C, subject to be divested in case A, B, and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

107. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(a) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(b) A sum of money is bequeathed to A "in case he shall attain the age of 18," or, "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(c) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not be then living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(d) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(e) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(f) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(g) An estate is bequeathed to A until he shall take advantage of the Act for the Relief of Insolvent Debtors, and

after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(h) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(i) A leaves his farm of Sultānpur Khurd to B, if B shall convey his own farm of Sultānpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(j) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(k) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(l) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(m) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

108. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

PART XIV.

Of Onerous Bequests.

109. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Onerous bequest.

Illustration.

A having shares in (X), a prosperous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

110. Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

One of two separate and independent bequests to same person may be accepted, and the other refused.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

Of Contingent Bequests.

111. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

Illustrations.

(a) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(b) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(c) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(d) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children," are to be understood as meaning in case B shall die without children during the lifetime of A.

(e) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the lifetime of A."

112. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

Bequest to such of certain persons as shall be surviving at some period, but the exact period is not specified.

Illustrations.

(a) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(b) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(c) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(d) Property is bequeathed to A for life, and after his death to B and C, with a direction that in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

PART XVI.

Of Conditional Bequests.

113. A bequest upon an impossible condition is void.

Bequest upon impossible condition.

Illustrations.

(a) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(b) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

114. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(a) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(b) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

115. Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Illustrations.

(a) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(b) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(c) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B and C only. A has not fulfilled the condition.

(d) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(e) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(f) A makes his Will, whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(g) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A, within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

116. Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(a) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(b) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

117. Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

Illustration.

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

118. A bequest may be made to any person with the condition superadded that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

Illustrations.

(a) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be divested and to go to B in case A shall die under 18.

(b) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(c) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be divested if he dies leaving a son in A's lifetime.

(d) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(e) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death, equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

119. An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

Illustrations.

(a) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(b) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(c) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second. **120.** If the ulterior bequest be not valid, the original bequest is not affected by it.

Illustrations.

(a) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(b) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate

during her life as if no condition had been inserted in the Will.

(c) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

121. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

Illustrations.

(a) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(b) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(c) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(d) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(e) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the lifetime of A. She thereby loses her contingent interest in the fund.

122. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by the one hundred and seventh Section.

123. Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

Illustrations.

(a) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(b) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

124. Where the Will requires an act to be performed by the legatee with- in a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a con-

dition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified,

Further time allowed in case of fraud, unless the performance of it be prevented by fraud, in which case such further time shall be

allowed as shall be requisite to make up for the delay caused by such fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

125. Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner following an absolute bequest of the same to or for the benefit of any person, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

126. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him, as if the Will had contained no such direction.

Illustrations.

(a) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(b) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

127. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

Illustrations.

(a) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(b) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their

decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

Of Bequests to an Executor.

128. If a legacy is bequeathed to a person who is named an executor of the Will he shall not take the legacy unless he proves the Will or otherwise manifests an intention to act as executor.

Legatee named as executor cannot take unless he shows intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

PART XIX.

Of Specific Legacies.

129. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Illustrations.

- (a) A bequeaths to B—
 "The diamond ring presented to him by C."
 "His gold chain."
 "A certain bale of wool."
 "A certain piece of cloth."
 "All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."
 "The sum of 1,000 rupees in a certain chest."
 "The debt which B owes him."
 "All his bills, bonds, and securities belonging to him lying in his lodgings in Calcutta."
 "All his furniture in his house in Calcutta."
 "All his goods on board a certain ship then lying in the River Hooghly."
 "2,000 rupees which he has in the hands of C."
 "The money due to him on the bond of D."
 "His mortgage on the Rampore Factory."
 "One-half of the money owing to him on his mortgage of Rampore Factory."
 "1,000 rupees, being part of a debt due to him from C."
 "His capital Stock of 1,000*l.* in East India Stock."
 "His promissory notes of the Government of India, for 10,000 rupees in their 4 per cent. loan."
 "All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."
 "All the wine which he may have in his cellar at the time of his death."
 "Such of his horses as B may select."
 "All his shares in the Bank of Bengal."
 "All the shares in the Bank of Bengal which he may possess at the time of his death."
 "All the money which he has in the 5½ per cent. loan of the Government of India."
 "All the Government securities he shall be entitled to at the time of his decease."
 Each of these legacies is specific.

(b) A having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B. The legacy is specific.

(c) A having property at Benares, and also in other places, bequeaths to B all his property at Benares. The legacy is specific.

(d) A bequeaths to B—
 His house in Calcutta.

His zamindari of Rampore.

His taluk of Rámnagar.

His lease of the Indigo factory of Sulkea.

An annuity of 500 rupees out of the rents of his zamindari of W.

A directs his zamindari of X to be sold, and the proceeds to be invested for the benefit of B. Each of these bequests is specific.

(e) A by his will charges his zamindari of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamindari to D. Each of these bequests is specific.

(f) A bequeaths a sum of money to buy a house in Calcutta for B.

To buy an estate in Zillah Fureedpore for B.

To buy a diamond ring for B.

To buy a horse for B.

To be invested in shares in the Bank of Bengal for B.

To be invested in Government securities for B.

A bequeaths to B—

"A diamond ring."

"A horse."

"10,000 rupees worth of Government securities."

"An annuity of 500 rupees."

"2,000 rupees, to be paid in cash."

"So much money as will produce 5,000 rupees 4 per cent. Government securities."

These bequests are not specific.

(g) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England. No one of these legacies is specific.

130. Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

Illustration.

A bequeaths to B—

"10,000 rupees of his funded property."

"10,000 rupees of his property now invested in Shares of the East Indian Railway Company."

"10,000 rupees at present secured by mortgage of Rampore Factory."

No one of these legacies is specific.

131. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 rupees.

The legacy is not specific.

132. A money legacy is not specific merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

Illustration.

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

133. Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

134. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Illustrations.

(a) A having a lease of a house for a term of years, 15 of which were unexpired, at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(b) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

135. Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

136. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

PART XX.

Of Demonstrative Legacies.

137. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(a) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees

to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(b) A bequeaths to B ten bushels of the corn which shall grow in his field of "Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 rupees "from his funded property."

"1,000 rupees out of the sum of 2,000 rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Rámnagar.

A bequeaths to B "10,000 rupees out of his estate at Rámnagar," or charges it on his estate at Rámnagar.

"10,000 rupees, being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

138. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

PART XXI.

Of Ademption of Legacies.

139. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Illustrations.

(a) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods which shall be in or about his dwelling-house in M Street in Calcutta at the time of his death."

A, in his lifetime,
Sells or gives away the ring.
Converts the chain into a cup.
Converts the wool into cloth.
Makes the cloth into a garment.
Takes another house into which he removes all his goods.
Each of these legacies is adeemed.

(b) A bequeaths to B—
"The sum of 1,000 rupees in a certain chest."
"All the horses in his stable."
At the death of A, no money is found in the chest, and no horses in the stable.
The legacies are adeemed.

(c) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.
The legacy is adeemed.

140. A demonstrative legacy is not adeemed by reason that the property on demonstrative legacy which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

141. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Illustrations.

- (a) A bequeaths to B—
 "The debt which C owes him."
 "2,000 rupees which he has in the hands of D"
 "The money due to him on the bond of E."
 "His mortgage on the Rampore Factory."

All these debts are extinguished in A's lifetime, some with and some without his consent.

All the legacies are adeemed.

(b) A bequeaths to B—
 "His interest in certain policies of life assurance."
 A in his lifetime receives the amount of the policies. The legacy is adeemed.

142. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

Illustration.

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

143. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

144. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

Illustration.

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

145. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—
 "His capital stock of 1,000*l.* in East India Stock."
 "His promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."
 A sells the stock and the notes.
 The legacies are adeemed.

146. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

Illustration.

A bequeaths to B—
 "His 10,000 rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 rupees in the loan in question.
 One-half of the legacy is adeemed.

147. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

Illustrations.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

148. The removal of the thing bequeathed from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

When removal of thing bequeathed does not constitute ademption.

Illustrations.

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

149. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

150. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Illustrations.

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

A bequeaths to B the sum of 2,000L., invested in Consols in the names of trustees for A.

The sum of 2,000L. is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by Will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

151. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his three per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

152. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be re-placed, and it is re-placed accordingly, the legacy is not adeemed.

153. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

PART XXII.

Of the Payment of Liabilities in respect of the Subject of a Bequest.

154. Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

Illustrations.

(a) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(b) A bequeaths to B a zamindari, which at A's death is subject to a mortgage for 10,000 rupees, and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

155. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(a) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(b) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

156. Where there is a bequest of any interest in immovable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

157. In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such

stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

Illustrations.

(a) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made, and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(b) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(c) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(d) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(e) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime, a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

Of Bequests of Things described in general Terms.

158. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Illustrations.

(a) A bequeaths to C a pair of carriage horses, or a diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(b) A bequeaths to B "his pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

159. Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Illustrations.

(a) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(b) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his

life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(c) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

Of Bequests of Annuities.

160. Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Illustrations.

(a) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(b) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(c) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

161. Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

Illustrations.

(a) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(b) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

162. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

163. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

PART XXVI.

Of Legacies to Creditors and Portioners.

164. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the Will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Creditor *primâ facie* entitled to legacy as well as debt.

165. Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

Child *primâ facie* entitled to legacy as well as portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

166. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

No ademption by subsequent provision for legatee.

Illustrations.

(a) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(b) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

PART XXVII.

Of Election.

167. Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Circumstances in which election takes place.

168. The interest so relinquished shall devolve as if it had not been disposed of by the Will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Devolution of interest relinquished by the owner.

169. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

Testator's belief as to his ownership immaterial.

Illustrations.

(a) The farm of Sultânpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultânpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which

800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(b) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(c) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(d) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

170. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Bequest for a man's benefit how regarded for the purpose of election.

Illustration.

The farm of Sultânpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultânpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will or keep his farm of Sultânpur Khurd in opposition to it.

171. A person taking no benefit directly under the Will, but deriving a benefit indirectly under it indirectly, is not put to his election.

A person deriving a benefit indirectly not put to his election.

Illustration.

The lands of Sultânpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultânpur to B, and 1,000 rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultânpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultânpur in opposition to the Will.

172. A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

Illustration.

The estate of Sultânpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultânpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultânpur in opposition to the Will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the Will.

Exception to the six last Rules.—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultânpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultánpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

173 Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

Illustrations.

(a) A is owner of an estate called Sultánpur Khurd and has a life interest in another estate called Sultánpur Buzurg to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultánpur Khurd to B, and the estate of Sultánpur Buzurg to C. B, in ignorance of his own right to the estate of Sultánpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultánpur Khurd. B has not confirmed the bequest of Sultánpur Buzurg to C.

(b) B, the eldest son of A, is the possessor of an estate called Sultánpur. A bequeaths Sultánpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultánpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultánpur to C.

174. Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

175. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

176. If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

177. In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

PART XXVIII.

Of Gifts in Contemplation of Death.

178. A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Illustrations.

(a) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.
A bond granted by C to A.
A Bank Note.
A promissory note of the Government of India endorsed in blank.
A Bill of Exchange endorsed in blank.
Certain mortgage deeds.
A dies of the illness during which he delivered these articles.

B is entitled to—

The watch.
The debt secured by C's bond.
The Bank Note.
The promissory note of the Government of India.
The Bill of Exchange.
The money secured by the mortgage deed.

(b) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(c) A being ill and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

Of Grant of Probate and Letters of Administration.

179. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

180. When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

Appointment express or implied.

181. Probate can be granted only to an executor appointed by the Will.

182. The appointment may be express or by necessary implication.

Illustrations.

(a) A wills that C be his executor if B will not; B is appointed executor by implication.

(b) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(c) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

183. Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

184. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration.

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

185. If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will. If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

186. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

187. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under the one hundred and eightieth Section.

188. Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

189. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

190. No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

191. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

192. Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

193. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

194. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

195. If the executor renounce, or fail to accept the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

196. When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

197. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

198. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

199. Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

200. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

201. If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations.

(a) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(b) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

202. If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

203. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate; provided that when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

204. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

205. The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

206. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

207. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

PART XXX.

Of Limited Grants.

(a). Grants limited in Duration.

208. When the Will has been lost or mislaid since the testator's death, Probate of copy or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

209. When the Will has been lost or destroyed and no copy has been made nor the draft preserved, Probate of contents of lost or destroyed Will. probate may be granted of its contents, if they can be established by evidence.

210. When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

211. Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will, or an authenticated copy of it, be produced.

(b). Grants for the Use and Benefit of Others having Right.

212. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

213. When any person to whom, if present,

Administration, with the Will annexed to Attorney of an absent person, who, if present, would be entitled to administer.

letters of administration, with the Will annexed, might be granted, is absent from the Province, letters of administration, with the Will annexed, may be granted to his Attorney, limited as above mentioned.

214. When a person entitled to administration

Administration to Attorney of absent person entitled to administer in case of intestacy.

in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

215. When a minor is sole executor or sole

Administration during minority.

residuary legatee, letters of administration, with the Will annexed, may be granted to

the legal guardian of such minor or to such other person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before probate of the Will shall be granted to him.

216. When there are two or more minor

Administration until one of several minor executors or residuary legatees attains majority.

executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant

shall be limited until one of them shall have completed the age of eighteen years.

217. If a sole executor or a sole universal or

Administration for use and benefit of lunatic *jus habens*.

residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person to

such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

218. Pending any suit touching the validity

Administration *pendente lite*.

of the Will of a deceased person, or for obtaining or revoking any probate or any grant

of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

*(c). For Special Purposes.***219.** If an executor be appointed for any

Probate limited to purpose specified in the Will.

limited purpose specified in the Will, the probate shall be limited to that purpose, and if

he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

220. If an executor appointed generally give

Administration with the Will annexed limited to a particular purpose.

an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters

of administration with the Will annexed shall be limited accordingly.

221. Where a person dies, leaving property

Administration of which he was the sole or limited to property surviving trustee, or in which a person has a beneficial interest.

on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

222. When it is necessary that the represen-

tative of a person deceased be Administration made a party to a pending limited to a suit.

suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

223. If at the expiration of twelve months

Administration from the date of any probate limited to the purpose of becoming a party to a suit to be brought against ad-

ministrator. or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

224. In any case in which it may appear

Administration necessary for preserving the limited to collection property of a deceased person, and preservation of the Court within whose district deceased's property: any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

225. When a person has died intestate, or

leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court

to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

(d) Grants with Exception.

226. Whenever the nature of the case requires that an exception be made, probate of a Will, or letters of administration with the Will annexed, shall be granted subject to such exception.

227. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e) Grants of the Rest.

228. Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(f) Grants of Effects unadministered.

229. If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

230. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

231. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

(g) Alteration in Grants.

232. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

233. If, after the grant of letters of administration with the Will annexed, a Codicil be discovered; it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

(h) Revocation of Grants.

234. The grant of probate or letters of administration may be revoked or annulled for just cause.

Explanation.—Just cause is, 1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative through circumstances.

Illustrations.

(a) The Court by which the grant was made had no jurisdiction.

(b) The grant was made without citing parties who ought to have been cited.

(c) The Will of which probate was obtained was forged or revoked.

(d) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(e) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(f) Since probate was granted, a later Will has been discovered.

(g) Since probate was granted, a Codicil has been discovered, which revokes or adds to the appointment of executors under the Will.

(h) The person to whom probate was or letters of administration were granted has subsequently become of unsound mind.

PART XXXI.

Of the Practice in granting and revoking Probates and Letters of Administration.

235. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

236. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

237. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to

in case he had been a party to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

238. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

239. Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

240. Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

241. When the application is made to the Judge of a District in which the deceased had no fixed abode, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District, or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

242. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

243. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be im-

peached, by reason that the testator or intestate had no fixed place of abode, or no property within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

244. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

245. In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—"I (A B) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

246. Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

247. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and signed and verified. It shall be verified by the petitioner in the following manner or to the like effect:—

"I (A B), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

248. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable), in the manner or to the effect following:—

"I (C D), one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (or mark) thereto (as the case may be), (or that the said tes-

tator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence").

249. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

250. In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

251. Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

252. The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at , without notice to C D of ."

253. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

254. When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

"I, Judge of the District of hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to the executor in the said Will named, he having undertaken to ad-

minister the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

255. And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following:—

"I, Judge of the District of hereby make known that on the day of letters of administration (with or without the Will annexed, as the case may be) of the property and credits of , late of , deceased, were granted to , the father (or as the case may be) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

256. Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

257. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

258. No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

259. Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the pre-

servation and inspection of the Wills so filed as aforesaid.

260. After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

261. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

262. Where any probate is or letters of administration are revoked, all payments *bond fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

263. Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

264. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

PART XXXII.

Of Executors of their own Wrong.

265. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions. First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(a) A uses or gives away or sells some of the goods of the deceased or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(b) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(c) A sues as executor of the deceased not being such. He is an executor of his own wrong.

266. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

Of the Powers of an Executor or Administrator.

267. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

268. All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Illustrations.

(a) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(b) A sues for divorce. A dies. The cause of action does not survive to his representative.

269. An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

Illustrations.

(a) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(b) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

270. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

271. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out administration.

Illustrations.

(a) One of the several executors has power to release a debt due to the deceased.

(b) One has power to surrender a lease.

(c) One has power to sell the property of the deceased, moveable or immoveable.

(d) One has power to assent to a legacy.

(e) One has power to endorse a promissory note payable to the deceased.

(f) The Will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

272. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

273. The administrator of effects unadministered has, with respect to such effects, the same power as the original executor or administrator.

274. An administrator during minority has all the powers of an ordinary administrator.

275. When probate or letters of administration have been granted to a married executrix or administratrix, she has all the powers of an ordinary executor or administrator.

PART XXXIV.

Of the Duties of an Executor or Administrator.

276. It is the duty of the executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

277. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

278. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

279. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

280. The expenses of obtaining probate or letters of administration, including the costs incurred for expenses or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

281. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

282. Save as aforesaid, no creditor is to have a right of priority over another, all debts to be paid by reason that his debt is equally and rateably secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

283. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immoveable property to the value of 5,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

284. No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount.

The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed ratably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

285. Debts of every description must be paid before any legacy.

286. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

287. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

288. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

289. Where there is a demonstrative legacy and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

290. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

291. For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

PART XXXV.

Of the Executor's Assent to a Legacy.

Executor's assent necessary to complete legatee's title.

292. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(a) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(b) A by his Will has bequeathed to C his house in Calcutta in the tenancy of D. C is not entitled to receive the rents without the assent of the executor.

293. The assent of the executor to a specific bequest shall be sufficient to assent to specific legacy. Effect of executor's assent to specific legacy. devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(a) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(b) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(c) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(d) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(e) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

294. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(a) A bequeaths to B his lands of Sultānpur, which at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(b) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

295. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Illustration.

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

296. The assent of the executor to a legacy gives effect to it from the death of the testator.

Assent of executor gives effect to legacy from testator's death.

Illustrations.

(a) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(b) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

297. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

298. Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

299. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

300. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

301. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

302. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

303. Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

304. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

305. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

306. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

307. Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

308. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money

so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

PART XXXVIII.

Of the Produce and Interest of Legacies.

309. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(a) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(b) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(c) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

310. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(a) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(b) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

311. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Exceptions. (1.)—Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.)—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.)—Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

312. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

313. The rate of interest shall be four per cent. per annum.

314. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

315. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

PART XXXIX.

Of the Refunding of Legacies.

316. When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

317. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

318. When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under the one hundred and twenty-fourth Section, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

319. When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

320. Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

321. A creditor who has not received payment of his debt may, within two years after the death of the testator or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

322. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

323. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

324. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Illustration.

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

325. The refunding shall in all cases be without interest.

326. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

PART XL.

Of the Liability of an Executor or Administrator for Devastation.

327. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(a) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(b) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(c) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

328. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(a) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(b) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

Miscellaneous.

329. For every instrument or writing of any of the kinds specified in the Schedule to this Act, and which shall be made or executed after the commencement of this Act, there shall be payable to Government a Stamp duty or fee of the amount indicated in the said Schedule.

330. Nothing contained in this Act shall be deemed or taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively, under or by virtue of Act VIII of 1855 (*to amend the law relating to the office and duties of Administrator General*), Act XXVI of 1860 (*to amend Act VIII of 1855*), The Regimental Debts Act, 1863, and the Administrator General's Act, 1865; and it shall be the duty of the Magistrate or other Chief Officer charged with the executive administration of a district or place in criminal matters, whenever any person to whom the provisions of this Act shall apply shall die within the

limits of his jurisdiction, to report the circumstances without delay to the Administrator General of the Province, retaining the property under his charge until letters of administration shall have been obtained by that Officer or by some other person, when the property is to be delivered over to the person obtaining such letters, or who may obtain probate of the Will (if any) of the deceased.

331. The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan or Buddhist; nor shall they apply to any Will made, or any intestacy occurring before the first day of January 1866. The fourth Section shall not apply to any marriage contracted before the same day.

332. The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India or any part of such race, sect or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the *Gazette of India*.

SCHEDULE.

STAMPS.

	Stamps.
Petition for probate or letters of administration where the value of the estate exceeds Rs. 500	Rs. 10 0 0
Ditto where the value of the estate is less than Rs. 500	Re. 1 0 0
Probate or letters of administration	Rs. 8 0 0
Caveat	Rs. 4 0 0
Citation	Re. 1 0 0
All petitions other than those above mentioned	Re. 1 0 0
Inventory	Re. 1 0 0
Administration-bond	Rs. 8 0 0

FEE.

Translations by the Court Translator or by order of the Court, per folio of ninety words	Rs. 2 0 0
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WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 15th March 1865, and is hereby promulgated for general information:—

ACT No. XI of 1865.

An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature; It is enacted as follows:—

1. In this Act, unless there be something repugnant in the subject or context—

Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender. Words importing the masculine gender include females.

"Judge." "Judge" includes an Acting Judge.

"Section." "Section" means a Section of this Act.

"Court of Small Causes." "Court of Small Causes" means a Court constituted under this Act.

And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

2. Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and Act XII of 1861 (*to amend Act XLII of 1860*) are hereby repealed: Provided that any Courts of Small Causes now in existence which shall have been constituted under Act No. XLII of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII of 1860 or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein; and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

3. The Local Government may, with the sanction of the previous sanction of the Governor-General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any

places within the Territories under such Govern-

Limits of their territorial jurisdiction to be fixed by Local Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

4. Every Court of Small Causes shall use a Seal of the Court. seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of _____"—and shall be subject to the general control and orders of the High Court.

5. Courts of Small Causes shall be held at Places where such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

6. The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise: Provided that no action shall lie in any such Court

(1). On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2). For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3). For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4). For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

7. The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

8. Courts of Small Causes may try all such suits as are described in the sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Explanations.—(a.) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(b.) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office, in respect of any cause of action arising at such place.

(c.) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

9. Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

10. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

11. Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

12. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Panchayats, under the provisions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859 (for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates and for constituting those Officers Registers of Deeds); or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Panchayats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Panchayats in Madras.

Of Military Courts of Requests.

Magistrates invested with Civil jurisdiction under Act III of 1859 (for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates and for constituting those Officers Registers of Deeds);

Of Officers appointed to try small suits in Madras and Bombay.

Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively;

Or of Military Panchayats in Madras.

in force in the Presidency of Madras.

13. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

14. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

15. The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the thirteenth Section.

16. If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

17. Every person invested with the powers of a Judge of a Court of Small Causes under the fifteenth Section shall receive such remuneration as the Governor General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent

in any district or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

18. In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

19. When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the movable property of the judgment-debtor within the same limits. If the warrant be directed against the movable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

20. In the execution of a decree under this Act, if, after the sale of the movable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immovable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immovable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

21. In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside: and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it

shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

On deposit of debt and costs.

22. If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding five hundred rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred rupees shall, draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c., to High Court.

23. The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

24. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

High Court to fix day for the hearing.

25. The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by Pleader.

26. The High Court when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

27. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

28. When a case is referred to the High Court under the twenty-second Section, the High Court may alter, cancel, or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power to High Court to alter or set aside order or decree made in the matter.

29. Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Power to appoint one of the Courts of a District to be the Principal Court.

30. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

31. The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges sit together for trial of certain suits.

32. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the twenty-second Section of this Act; and the provisions applicable to a reference to the High Court, contained in the twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth Sections of this Act shall be applicable to every reference made under this Section.

Procedure when two Judges differ on a point of law.

33. If two Judges differ on any matter other than the matters above-mentioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference between two Judges on a question of fact.

34. If a Judge and a person invested with the powers of a Judge as aforesaid differ on any matter other than the matters above mentioned, the Judge shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

35. It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor General of India in Council.

Appointment of Registrar.

36. The Registrar of every Court of Small Causes shall be the chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the twenty-first Section.

37. If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections twenty-seven to thirty-two both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

38. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

39. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person em-

powered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

40. The local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

41. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

42. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under the twenty-second Section of this Act, state a case for the opinion of the High Court; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

43. A decree passed by a Registrar under the thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

44. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar

of any Court of Small Causes may also be the Clerk of the Court.

45. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

46. The High Court shall have power to make and issue general rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

47. The twenty-sixth Section of Act X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

48. Nothing in the second Section of the said Act No. III of 1859, or the sixth, seventh and eighth Sections of Act No. XXII of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and soldiers in the service of the East India Company*) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

49. Nothing in this Act, nor in the sixth, seventh and eighth Sections of the said Act XXII of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer, under any such Statute to assemble such Courts.

50. When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII of 1860, such reference shall be read as applying to this Act, and when any pro-

cedure is directed to be in accordance with the provisions of Act XLII of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

51. Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

2. In the places in which the provisions of Act X of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*), are in force, the Local Government may empower any Judge of a Court of Small Causes, to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859 except the power of hearing appeals.

53. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
* Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th March 1865, and is hereby promulgated for general information:—

Act No. XII of 1865.

An Act to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of an Officer appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta; It is enacted as follows:—

1. In this Act:—

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Magistrate" includes a Magistrate of Police appointed under Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras

and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca).

2. The forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second Sections of Act XVIII of 1862 (to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature), and Act XXV of 1863 (to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction) are hereby repealed.

3. After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison; and no writ shall be awarded to the said Sheriff commanding him to arrest and seize the body of any offender.

4. It shall be lawful for the Government of Bengal to appoint an Officer who shall be called the Superintendent of the Presidency Jail, and who shall have authority to receive and keep prison-

ers committed to his custody under the provisions of this Act.

5. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the Superintendent of the Presidency Jail, together with the warrant of the said Court, and such warrant shall be executed by the said Superintendent and returned by him to the High Court when executed.

6. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

7. Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, the Magistrate shall cause such person to be delivered to the said Superintendent together with a warrant of the Court.

8. The said Superintendent shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

9. Persons committed by a Justice of the Peace or Magistrate for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

10. Every person arrested in pursuance of a warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 (for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay), shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the said Superintendent; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

11. The said Superintendent shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Superintendent to detain such persons according to exigency of warrant.

12. From and after the commencement of this Act, all persons confined in the Great Jail of Calcutta, under process or sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

13. Any warrant of commitment under Regulation III, 1818, of the Bengal Code (*for the confinement of State Prisoners*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff, under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

14. The provisions contained in the Statute 11 Vict., cap. 21 (*to consolidate and amend the laws relating to Insolvent Debtors in India*), relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the said Superintendent or liable to be delivered to or entitled to be discharged from his custody.

Provisions of Statute 11 Vict., cap. 21 as to prisoners, to extend to persons in custody of Superintendent.

Commencement of Act.

15. This Act shall come into operation on the first day of April 1865.

16. The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the *Gazette of India*: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and Regulation II of 1819 of the Madras Code (*for the confinement of State Prisoners*) and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State*), shall respectively be read for the said Regulation III of 1818 of the Bengal Code, and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this

Act shall thenceforward cease to have effect in such jurisdictions.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st March 1865, and is hereby promulgated for general information:—

ACT NO. XIII OF 1865.

An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows:—

Preliminary.

1. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

2. In this Act, unless there be something repugnant in the subject or context—

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, respectively.

"Chief Justice," "Judge," "Registrar," and "other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the

High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India" denotes the territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

Of Charges where the accused is committed in a Presidency Town.

3. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed, within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

4. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

5. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

6. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

7. In Act XVIII of 1862 (*to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the adminis-*

tration of Criminal Justice in Her Majesty's Supreme Courts of Judicature), the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

8. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Of Grand Juries.

9. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries, shall be liable, except as hereinafter provided, to serve on such Juries.

10. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

Of Juries in Presidency Towns.

11. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

12. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons

privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

13. The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

Special Jurors exempted from serving on Common Juries.

14. All persons whose names are entered in the "Special Jurors' List," shall be exempted from serving on any other than Special Juries.

15. The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

16. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

17. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

18. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Of Challenges of Jurors in the Presidency Towns.

19. A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

20. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

21. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empanelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

Of Sittings under a Commission.

22. From and after the commencement of this Act, whenever it shall appear to the Governor General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor General of India in Council shall, by his Commission for that purpose,

authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

23. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

24. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

25. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

26. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time and place during and in which it shall travel, or places within which such Commission shall remain in force; and such time and the limits of such districts or places shall be notified in the Official Gazette.

27. The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

28. Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given,

and the documents directed to be sent to the Clerk of the Crown shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

29. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed

where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to as last aforesaid or not shall have the same effect as, and be deemed to be, a charge, under the sixth, seventh, and eighth Sections of this Act.

30. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

31. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British sub-

jects shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section of this Act to be given and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

32. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such

Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which he would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall,

subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

33. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

34. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

35. Whenever the Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

36. If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

37. On every trial mentioned in the thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

38. During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial

nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

39. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

40. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

41. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed

by the Sudder Court under the Code of Criminal Procedure.

42. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

43. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

44. From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

45. This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

46. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Act not to extend to Straits Settlement.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1865, and was referred to a Select Committee, with instructions to make their report thereon in a fortnight:—

No 9 of 1865.

A Bill to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).

WHEREAS it is expedient to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties); It is enacted as follows:—

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, direct that, in the whole of the British Territories in India, or in such part thereof as may be specified in the said order, such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments or Writings specified in the Schedules annexed to the said Act, or on any particular class of such Deeds, Instruments or Writings, or on any of the Deeds, Instruments or Writings belonging to any such class, or he may altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be notified in the Official Gazette.

This Act to be taken as part of Act X of 1862. 3. This Act shall be read with and taken as part of the said Act No. X of 1862.

STATEMENT OF OBJECTS AND REASONS.

The part of the Stamp Act, which the present Bill proposes to amend, is the thirty-third Section. By that Section the Governor-General of India in Council is empowered to reduce the rate of Stamp Duty on all or any of the Deeds, Instruments and Writings described in the Schedules at the end of the Act, or altogether to exempt them from Stamp Duty. The Section, as now framed, might be supposed to be sufficiently large and comprehensive to enable the Government of India to do all that is necessary in the direction of the Section, and to meet every case in which a reduction of Stamp Duty might be deemed just or reasonable; but experience has shewn that the wording of the Section is too restrictive, and that the power given by it requires to be enlarged. An application has recently been made to the Government of India to reduce the Stamp Duty chargeable on bonds which are taken under the Indian Customs Act of 1863. These bonds are now liable to the same Stamp Duty as all other bonds or obligations for the payment of money. Compared with England the amount of Stamp Duty on bonds in this Country is high, and as levied on the class of bonds just mentioned, it is found to press heavily upon trade, and particularly upon the bonders of Salt cargoes.

Looking to the circumstances under which these bonds are taken, and to the fact that actions to enforce them are very rare, the Government are disposed to view favourably the proposition that has been made for the reduction of the rate of Stamp Duty to which they are now liable, and to follow to some extent the English practice in respect of such bonds; but they are advised that, although they have power to lower the rate of Stamp Duty on bonds generally in the whole or any part of British India, they have not power to reduce the rate of Stamp Duty on any particular class of bonds. The object of the present Bill is to invest the Government of India with this power as regards not only bonds, but also all other Deeds, Instruments and Writings liable to Stamp Duty.

H. B. HARRINGTON.

The 3rd March 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)*

HOME DEPARTMENT.

No. 2762 A.

Fort William, the 22nd March 1865.

NOTIFICATIONS.

Mr. Henry Davis Willock, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years, from the date of embarkation.

No. 2813.

The 27th March 1865.

His Excellency the Viceroy is pleased to re-appoint the Hon'ble H. S. Maine to be Vice Chancellor of the Calcutta University.

No. 2814.

The following Despatch from the Right Hon'ble the Secretary of State, No. 12 of 1865, dated 2nd February, is published for general information:—

PUBLIC.

INDIA OFFICE,

No. 12.

London, 2nd February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR,—In accordance with the suggestion made in your letter in the Foreign Department, (General,) dated 19th September, (No. 17) 1864, I have consulted the Law Officers of the Crown and the Standing Counsel to this Department on the question whether the restrictions as to salaries in India imposed by Acts 33 George III, Cap. 52, Section 57,—and 53 George III, Cap. 155,—Section 82, have been repealed by Act 24 and 25 Victoria, Cap. 54; and it is the opinion of those Functionaries that the enactments in question have been wholly repealed by Section 7 of the last-mentioned Act.

2. It will be proper, in accordance with this opinion, that any sums, which, since the passing of Act 24 and 25 Victoria, Cap. 54, have been withheld from any Junior Civilians in any of the Presidencies under the view of the Law which has now been declared to be erroneous, should be paid to them, and that any sums retrenched on

the same account should be refunded; and having considered the subject in Council, I have to request that you will cause an adjustment of the salaries of the Civil Servants in question to be effected in conformity with this view.

3. I shall address you hereafter on the general subject of the limitation of salaries in relation to length of service.

I have, &c.,

(Sd.) C. Wood.

No. 2815.

The 28th March 1865.

The services of the Reverend E. Godfrey, Chaplain of Jubbulpore, are placed at the disposal of the Government of the Punjab.

No. 2816.

The Reverend C. W. Cahusac, Chaplain of Jhansi, is appointed Chaplain of Jubbulpore, in the Central Provinces.

No. 2905.

The Hon'ble F. B. Kemp, a Puisne Judge of the High Court, availed himself, on the 22nd instant, of the leave of absence granted to him on the 14th of December last.

No. 2906.

The Governor General in Council is pleased to invest the undermentioned Junior Civil Servant, transferred from the North-Western Provinces for service in Oude, with the powers of a subordinate Magistrate of the 2nd Class, described in Section 22 of Act XXV of 1861:—

Mr. A. F. Millett, Officiating 3rd Class Assistant Commissioner, Oonao.

No. 2907.

The 29th March 1865.

The following Despatch from the Right Hon'ble the Secretary of State for India is published for general information:—

PUBLIC.

INDIA OFFICE,

No. 16.

London, 10th February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR,—I have to inform you that I have appointed General Sir William Mansfield, K. C. B., Commander-in-Chief of Her Majesty's Forces in India, to be an Extraordinary Member of the Council of the Governor General of India.

I have, &c.,

(Sd.) C. Wood.

No. 2908.

Under Section 8 of Act V of 1865, the Governor General in Council is pleased to grant a license to the Reverend J. Dawson, Minister of the Free Church of Scotland, to solemnize marriages within the Central Provinces.

No. 2910.

The 30th March 1865.

The Governor General in Council has been pleased to nominate Lieutenant Colonel F. J. Goldsmid, Madras Staff Corps, to be Superintendent of the Indo-European Telegraph, vice Lieutenant Colonel P. Stewart, deceased.

No. 2911.

In consequence of the prevalence of the crime of dacoitee in the Digris and Poosud Tracts in the Woon District of the Hyderabad Assigned Districts, and of the complicity of the inhabitants in the crime, the Governor General in Council is pleased, under Section 15, Act V of 1861, to sanction, for the period of one year, the quartering of the

1 Chief Constable ..	Rs. 60	Extra Police Force detailed in the margin, in the said places, the expense to be defrayed in the manner provided in the same Section.
2 Head Constables ..	" 22	
12 Constables with batta ..	" 90	
	Rs. 172	
10 per cent. ..	" 18	
	Rs. 190	

No. 2912.

In accordance with the provisions of Section 15, Act V of 1861, the Governor General of India in Council is pleased to direct that the town of Seonee in the Hooshungabad District, in the Central Provinces, shall be charged for six months with the cost (viz., Rs. 36 per mensem) of maintaining an additional Police Force, consisting of one Head Constable and four Constables rendered necessary by the conduct of the inhabitants.

No. 2913.

The 31st March 1865.

The undermentioned Covenanted Civil Servants have been permitted by the Secretary of State to return to their duty by the steamers of the dates specified without prejudice to their appointments, viz. :—

Mr. H. G. Ross	... 12th January.
" J. W. Smyth,	... 12th Jan. <i>via</i> Marseilles.
" F. S. Wigram	... 28th Jan. ditto.
" W. Macpherson	... 20th January.
" H. A. R. Alexander	4th February.

Mr. J. Graham, Standing Counsel at Calcutta, has been permitted by the Right Hon'ble the Secretary of State to return to his duty by the Marseilles Steamer of the 10th February without prejudice to his appointment.

The undermentioned Covenanted Civil Servants having produced the necessary medical certificates, have been granted by the Right Hon'ble the Secretary of State extensions of leave for the period specified against their names :—

Mr. L. R. Tottenham	... 6 months.
" H. J. Reynolds	... 6 "
" W. M. Beaufort	... 3 "

No. 2914.

Lieutenant E. B. Ward, District Superintendent of Police, Hurdul, has obtained one month's leave from the 2nd instant, preparatory to applying for sick leave to Europe.

No. 2916.

The Governor General in Council is pleased to invest the undermentioned Officer, in the Central Provinces, with the powers of a Subordinate Magistrate of the 1st Class described in Section 22 of Act XXV of 1861 :—

Sheolall Doobay, Tehseeldar of the Chindwarra District.

No. 2918.

Mr. D. F. Lonsdale, appointed an Assistant Commissioner in British Burmah, is invested with

the powers of a Subordinate Magistrate, 1st Class, as described in Section 22 of Act XXV of 1861.

No. 2920.

Messrs. Edwin Joselin Connor and John William Macdougall are appointed 3rd Class Sub-Assistants in the Great Trigonometrical Survey, with effect from the 1st instant.

No. 2922.

Leave of absence on medical certificate for a period of eleven months and twenty-six days is granted to the Hon'ble R. N. Cust, of the Bengal Civil Service.

No. 2923.

The following rules relating to Emigration from the Port of Calcutta have been made by the Governor General in Council under the provisions of Section 63 of Act No. XIII of 1864, and are published for general information :—

Rules for the guidance of the Protector, Medical Inspector of Emigrants, and Colonial Emigration Agents at the Port of Calcutta, under the provisions of Act No. XIII of 1864.

1. PROTECTOR OF EMIGRANTS.—The Protector of Emigrants shall at least once a week inspect the Emigrants in the various Depôts, examine into the state of each Depôt, and note the manner in which the Emigrants are lodged, fed, and clothed, and otherwise provided for.
2. He shall examine all intending Emigrants recruited in Calcutta, and if satisfied that the nature of the engagement is comprehended, register the same in a Book kept for the purpose. One copy of every Registration shall be furnished to the Emigrant, and one to the Emigration Agent of the Depôt for which the Emigrant has been engaged.
3. He shall take such steps as he shall think necessary for the conveyance to the place of first registration of all Emigrants who have been pronounced unqualified for Emigration by the Medical Inspector.
4. It shall be his duty to see that no restraint is put on any Emigrant, whether in Depôt or at the time of embarkation, and that none are detained or embarked against their will.
5. He will see that every Vessel licensed to carry Emigrants has been carefully surveyed, and ascertain that she is properly ventilated and is supplied with all necessaries requisite for the voyage.
6. He shall report in full on the survey to the Local Government, and if in every way qualified for the carrying of Emigrants, grant a Certificate to that effect to the Master of the Vessel.
7. It shall be the duty of the Protector of Emigrants to require the Master to enter into a Bond in consideration of his obtaining a License to carry Emigrants.
8. He shall see that the Emigrants are supplied with extra clothing at certain seasons of the year, or between the 1st March and 15th September.
9. It shall be the duty of the Protector to prevent the embarkation of any Emigrant who may be considered by the Medical Inspector incapacitated for labor from any cause whatever. He shall also ascertain that every Emigrant has in his possession a copy of the Registration provided under Section 30 or 33 of the Act.

10. The Protector shall, prior to embarkation, explain to all intending Emigrants the provisions of the Act in so far as they are affected thereby.

11. The Protector shall be personally present at the embarkation, and shall, in conjunction with the Master, compare the Lists supplied by Agents with the Passes, receiving two copies of the List from the Master, and, if correct, sign them, returning one to the Master, the other to be placed as record in the Protector's Office.

12. It shall be his duty to see that no one remains on board who has not a Pass, or whose name is not mentioned in the List.

13. The Protector shall report to the Local Government any discrepancy in the Muster Roll taken by the Officer of Customs or Pilot with the List signed by the Master and filed in the Office of the Protector.

14. The Protector shall furnish to the Protector of Immigrants, or other the proper Government Authority at the place for which the Emigrants embarked, a correct and detailed List of all Emigrants embarked in each Vessel, compiled from the Passes and from the List signed by the Master.

15. The Protector of Emigrants shall, as far as lies in his power, generally protect with his advice or otherwise all intending or return Emigrants, and shall cause all the provisions of the Act to be duly complied with. He shall also inspect Vessels bringing return Emigrants, ascertain the treatment received during their term of Emigration and on the voyage, and shall report thereon to Government.

16. Ships may be allowed to carry their full measurement of Emigrants, computed under Clauses 2 and 5, Section 47 of the Act, with a separate compartment for the married people and children; the space so measured shall be devoted to the exclusive use of the Emigrants, and shall in every part have a height of not less than five feet and a half, and may be either between-decks or in cabins on the upper deck firmly secured and entirely covered in.

17. GOVERNMENT MEDICAL INSPECTOR OF EMIGRANTS.—The Medical Inspector of Emigrants shall at least once a week examine into the sanitary state of each Depôt, inspect the Emigrants, and note the manner in which they are lodged, fed, clothed, and otherwise provided for and attended to. He shall report to the Protector any objection he may have to make to any Depôt, as well as any neglect or oppression of the inmates.

18. He shall, as soon as convenient, after the arrival of an Emigrant at a Depôt, examine the copy of his Registration, ascertain if he is in a fit state of health to emigrate; and if satisfied of his fitness, furnish a Certificate thereof to the Emigration Agent; if otherwise, furnish a Certificate to the contrary effect to the Protector of Emigrants.

19. He shall, in conjunction with the Protector of Emigrants, be personally responsible that all the provisions contained in Section 48 of the Act are complied with.

COLONIAL EMIGRATION AGENTS.—Every Colonial Emigration Depôt shall be licensed by the Protector of Emigrants after being inspected and approved of by him and the Medical Inspector of Emigrants, and for every License granted under Act XIII of 1864 there shall be paid to the Protector a fee of Rs. 10.

21. Every Recruiter must be licensed by the Protector of Emigrants.

22. Each Recruiter shall be licensed to recruit for some particular place to which Emigration is lawful under the Act. Licenses to be granted only on the application of Emigration Agents.

23. No License shall be in force for a longer period than one year, and may be at any time cancelled by the Protector for misconduct. Every License shall be in the form set forth in Schedule B. of the Act, and for every such License there shall be paid to the Protector a fee of Rs. 10.

24. Every Recruiter shall wear a badge in accordance with Section 28 of the Act.

25. Every Recruiter must have his License countersigned by the Magistrate of the District in which he is recruiting.

26. Every intending Emigrant, before leaving his District, must be taken by the Recruiter before the Magistrate for examination and registration, or in the case of recruitment in the Town of Calcutta, must, within forty-eight hours and before removal to an Emigration Depôt, be taken before the Protector of Emigrants for a similar purpose.

27. For the registration of every statute adult Emigrant the Recruiter shall pay to the Magistrate or to the Protector, as the case may be, a fee of Re. 1, which fee will be refunded on proof of desertion.

28. Emigrants shall be conveyed with all convenient dispatch to the Depôt of the port of embarkation, accompanied on the journey by the Recruiter or by a competent person appointed by him with the approval of the Magistrate. Such Recruiter or Agent shall throughout the journey provide them with suitable lodging and food.

29. The Emigration Agent shall report to the Protector of Emigrants the arrival of each Emigrant, and shall, as soon as convenient after such arrival, exhibit a copy of his Registration to the Medical Inspector of Emigrants.

30. The Emigration Agent, in the presence of the Protector and within forty-eight hours after the arrival of each Emigrant, shall ascertain whether he has been properly fed and treated during the journey to the Depôt. He shall also inspect and countersign the Emigrant's copy of his Registration.

31. The Emigration Agent shall deliver to all such Emigrants as have been approved by the Medical Inspector of Emigrants, a Pass in accordance with Section 42 of the Act.

32. The Emigration Agent shall examine and pass the Emigrants in the presence of the Protector of Emigrants.

33. The Emigration Agent shall furnish a Certificate of compliance with the requisitions of the Act to the Master of the Ship to enable him to obtain his License.

34. The Emigration Agent shall furnish the Master of the Vessel with five copies of a List prepared in conformity with Clause 1, Section 53 of the Act, two copies of which List he shall, after the embarkation, countersign, returning one of them to the Master.

35. The proportion of females shall be 25 per cent. to male Emigrants embarked. Females in an advanced stage of pregnancy should not be embarked, nor, as a general rule, young children who are unable to take ordinary food.

36. Every Emigration Agent shall afford every facility to the Protector and Medical Inspector of Emigrants for the due execution of their duties.

Rules for the guidance of all persons concerned in the Emigration of Native Laborers from Calcutta to British and Foreign Colonies.

1. EVERY Vessel for which a License is required shall be surveyed under the instructions of

the Protector of Emigrants to whom applications for Survey should be addressed.

2. After a Vessel has been surveyed and passed as fit for the conveyance of Emigrants, the Protector will grant to the Master a Certificate of her fitness, after which the Commander shall send for the inspection of the Protector, samples of each description of provisions enumerated in the accompanying Scale No. 1, and the provisions shall be kept 'tween-decks till examined and passed by the Protector and Medical Inspector of Emigrants. Commanders are desired to be particularly careful in inspecting the provisions, to satisfy themselves that all are of the best quality, as the examination by the Protector of the samples and of the provisions on board does not in any way lessen their responsibility. They are further required to sign the Certificate affixed to the accompanying Form No. 4. After the provisions have been passed, a sample of each sort must be sent to the Emigration Agent. River water drawn from a point above the city by Government Water Tank Boats provided for the purpose, is to be laid in for the use of the Coolies and Crews of Ships; the prescribed quantity of drinking water required for the voyage,* equal to consumption, is to be carried in Iron Tanks or Casks. Every Vessel employed in the conveyance of Emigrants shall, unless specially exempted by the Protector, be fitted with a Normandy's Apparatus or other Apparatus approved by the Protector of Emigrants for distilling Sea water, and shall also carry thirty tons of English Coal and a sufficiency of stores and tools for the Apparatus in accordance with the List in the Protector's Office. Where a Distilling Apparatus is provided, a reduction shall be allowed of one-third in the quantity of water carried in the Tanks. The Agent or Commander of every Vessel engaged to convey Emigrants shall provide medicines, medical comforts, and surgical instruments and appliances according to the annexed scale No. 3. All such medicinal stores shall be examined by the Depôt Surgeon, whose Certificate as to their quantity and quality shall be forwarded to the Office of the Protector of Emigrants at least one week before the Vessel sails.

3. Every such Vessel shall have one storm hatch, and a wind sail for every hatchway, and be otherwise ventilated according to the Regulations of Government. Commanders are required to understand and to be provided with a copy of Piddington's Work on the Law of Storms, and of Colonel Reid's Work, if procurable. They are further to be provided with the provisions and stores prescribed in Schedule No. 1 appended to these Rules. No dogs or wild animals shall be allowed on board a Vessel intended for Emigrants, nor shall any lumber be kept on the upper deck, except Ship's fitting, Long Boat, together with provisions, ghee, oil, &c., and water sufficient for three days' consumption. This supply is always to be kept ready to be served out daily without opening the hatches.

4. Water closets shall be fitted abreast of the forechains inside the Vessel, one for the use of the women, and one for the sick in bad weather; the latter shall on no account be used at any other time or for any other purpose. The space to be occupied by the Emigrants between-decks must be white-washed and entirely cleared, nothing being stowed away in any part or between the beams; platforms, twenty-four feet long, shall be erected in the between-decks abreast of each hatchway on

both sides of the Ship, and one must be fitted over the Long Boat. Cabooes shall be constructed so as to afford ample shelter to the Cooks from the weather. When this has been done, and all requisites, including cooking pots, cabooes, &c., have been put on board, and the Vessel is ready for Sea, the Commander shall apply to the Protector to have her surveyed again, and will then obtain a Certificate in the annexed Form No. 5.

5. A qualified European or Native Medical Officer will, subject to the approval of the Protector of Emigrants, be appointed by the Emigration Agents to every Ship engaged for the transport of Emigrants. In cases in which the Medical Officer selected by the Agents has no Diploma, he shall not be employed without the approval of the Director-General of the Medical Department. An Apothecary, or qualified Native Doctor shall also be appointed to attend on the Emigrants during the voyage.

6. The Medical Officer selected must be sent to the Protector's Office for the purpose of having his Testimonials examined, and the Protector may, if he sees reason for so doing, take the opinion of the Director-General of the Medical Department as to the efficiency of such Medical Officer.

7. Printed instructions for the medical treatment and management of Emigrants will be given to the Medical Officers on application by the Emigration Agent.

8. Government having directed that a second Medical Officer shall accompany each Ship to the Sandheads when disease is prevalent in Calcutta, any Commander not taking such an Assistant will be required to obtain from the Examining Surgeon, on the day of the embarkation of the Emigrants, a Certificate to the effect that they have been generally healthy in the Depôt, and that no epidemic is prevalent among the Coolies there.

9. Fire Buckets to the number required by the Port Regulations, *viz.*, five per 100 tons, shall be provided and arranged on the poop so as to be readily accessible in case of need.

10. Emigrants will not be allowed to embark on any Vessel on board which there is not a third European Officer, whose chief duty it shall be to adopt and superintend precautions against fire, and to have charge of and issue the rations and water of the Emigrants.

11. Prior to taking in cargo or stores, the Vessel's limbers and bilges shall be thoroughly cleared, and the latter shall be purified by means of Burnett's disinfecting fluid.

12. No Gunpowder or inflammable Oil shall be taken on board an Emigrant Vessel on freight.

13. Every Commander of an Emigrant Ship is required to procure a Certificate from the Owners or Managing Agents to the effect that a competent Steam Tug is engaged to take his Vessel to Sea, and that she will be ready to take the Vessel in tow within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked. Where neither the Commanders nor any of his Officers can speak the Native language, an efficient Interpreter must be provided.

14. Commanders are required to have Crew Lists prepared according to Form No. 6. No Native passengers, excepting Emigrants and Cabin passengers' servants, will be received on board an Emigrant Vessel.

15. Three days before the embarkation of Emigrants, Commanders are required to lodge Documents in the Forms Nos. 2, 4, 5, and 6 annexed

* *i. e.*, to the first intermediate Port of Calling.

to the Rules in the Protector's Office, to produce the Registers of their Ships, if required, and to execute the Bond required by the Emigration Act. Two copies of this Act and all Rules with translations will be furnished to them by the Emigration Agent, and must be retained in their possession during the voyage.

16. All requisite Forms will be supplied free of cost, but one Rupee will be charged for each duplicate, if any be required to replace lost or spoilt Forms.

17. When all the arrangements required by the above Rules have been completed, and the Vessel is clear and in all respects ready for Sea and in a fit state to receive the Emigrants on board, the Master shall apply in writing, through the Protector of Emigrants to the Local Government, for a License which will be delivered to the Master after the final examination of the Ship.

18. Moorings are specially laid down abreast of the Cooley Embarkation Wharf at Garden Reach, at which Commanders are required to moor their Vessels before the Emigrants embark.

19. Commanders are required to muster their Crew in the presence of the Pilot previous to the embarkation of the Emigrants, in order that their efficiency may be ascertained.

20. Commanders are required to afford to the Preventive Officers and Pilots every assistance in their power in carrying out the separate instructions with which they are charged.

21. In addition to the Emigration Certificate or Pass granted to each Cooley, the Emigration Agent will furnish the Master of every Vessel with five copies of a List of Emigrants which he is required to sign, and shall deliver two of them to the Agent, who after signing them will return one to the Master for the use of the Emigration Authorities at the Port of debarkation. The Master will also deliver to the Protector of Emigrants two copies of the List, who after signing them will return one copy for the purpose of the use of the Customs Officer mustering the Emigrants, retaining the other for Office record.

22. For every hundred adults four Sirdars must be appointed, one of them (who, whenever practicable, should be a man who has made a voyage before,) to act as headman. The Emigrants, previous to embarkation, must be divided into lots, and each Sirdar should take charge of a company and also of a division of the lower deck, for the cleanliness of which he is to be held responsible; one Mehter or Topas is to be shipped for every hundred souls, and two* professional Cooks (Bandarees) are to be sent in each Vessel, if the Protector thinks such an arrangement necessary.

23. The Ship's Surgeon shall receive charge of [Surgeon's duties.] the medicines, medical stores, &c., previously ascertaining that they are of good quality and not short of the quantity stated in the List furnished to him. He shall also give a receipt for such articles of clothing for the use of the sick as may be supplied to him by the Emigration Agent, and on arriving at the Port of debarkation he shall deliver the balance of such stores to the Emigration Agent at that Port, with a Statement of issues during the voyage.

24. Surgeons should see that one-half of the men and women remain constantly on the upper deck during the Vessel's progress down the River, and that the greatest care is taken to prevent their drawing up and drinking the River water from

alongside. The platform over the Long Boat and the poop deck being for the express accommodation of the Emigrants, good awnings must be spread over the poop and main deck all day and night until the Vessel is outside Saugor. In Vessels without a poop the space behind the mizen mast is to be given up to the Emigrants during the voyage, and specially while in the River. Surgeons should also see that every Emigrant, male and female, children included, is sent on deck daily in moderate weather, provided there are no urgent sanitary reasons to the contrary.

25. During the voyage, Commanders should see that the 'tween-decks are cleared three times every day, fumigated and dry-holy-stoned at least twice a week, and white-washed throughout, every alternate Saturday,—weather permitting; that none of the Crew interfere with the comforts or accommodation of the Emigrants; that the space given up for their use is in no way encroached upon; and that the provisions and water are regularly served out in the presence of an European Officer twice every day at fixed hours, according to the annexed Scale No. 1, so that the Emigrants shall be provided with two cooked meals daily at 9 A. M. and 4 P. M. Commanders should retain in their possession the Certificate and effects of those Emigrants who die during the Vessel's progress down the River and at Sea, and deliver them to the Protector of Emigrants at the Colony to which they are bound, with the counterpart List given to them by the Emigration Agent: great care must be taken not to deface the Certificate or List.

26. Ships that do not make so much water as to require to be pumped out once a week, must twice a week have a sufficient quantity of water poured into their hold, and pumped out again for the purpose of keeping the bilges sweet.

27. As the health of the Emigrants and the welfare of all persons on board a Ship materially depend on due care and attention to ventilation, cleanliness, and dry decks, the Commander is required to fit Booby hatches to each hatchway, and to take care that in bad weather ports, scuttles, and the ordinary hatchways are kept closed. During fine weather the Emigrants should be allowed and encouraged to be as much on deck as possible.

28. The Emigrants are to be allowed the means of bathing daily and of washing their clothes twice a week. They should also be allowed to have such exercise and recreation as the Surgeon may recommend. The Commander of the Vessel should provide them with tubs and buckets, and with a hand-pump to enable them to draw up water either for bathing or washing purposes, as well as with lines for drying their clothes. The Commander should also desire one of his Officers and some of the Crew to render assistance to the Emigrants on these occasions. For the woman accommodation for bathing should be made by screening off a place with a sail. During the continuance of rainy weather much fresh water may be saved and reserved for washing clothes, and as at that time the decks and clothes will be much affected by damp, the Commander is required, on the return of fine weather, to dry the decks with hanging stoves, the greatest care being taken that no Emigrants are in the 'tween-decks at the time. The airing and drying of bedding and clothes at least twice a week must be insisted on.

29. As the Surgeon will have the principal charge of the Emigrants, every requisition made by him to the Commander, consistent with good order and discipline, without interfering with the

* Except when more than 350 Coolies are conveyed in a Ship, in which case a third Cook must be taken.

routine duties for which the Commander himself is always the responsible person, must be promptly complied with.

30. Meals, when ready, should be reported to the Surgeon, who should inspect the food to satisfy himself that it has been cooked sufficiently. It must then be served out under the superintendence of the Ship's Officers, the Surgeon going below to assist in keeping order, and seeing that an equal distribution takes place.

31. Emigrants must, whenever the weather permits, eat their food on deck and not below, and no one should be permitted on any account to retain any portion of cooked rice or meal for consumption when cold.

32. Cooking utensils should be frequently inspected, and the practice of boiling rice or other articles of food in a mixture of salt and fresh water must be strictly prohibited. Provisions must always be well and properly cooked. Care must be taken to prevent any wastage of the daily allowance of water. The Sirdars should exercise a careful supervision on all these points, and never fail to report to the Commander and Surgeon any instances of neglect.

33. It will be the duty of the Surgeon to enforce on the Emigrants regularity of habits, cleanliness, and good order, and to encourage bathing whenever the weather permits. It is also important to the health and well-being of the Emigrants to keep up their spirits by harmless diversions and exercise. They should be permitted to play on their musical instruments, and sing until eight bells. They must not be allowed to sleep on deck at Sea, unless under cover and well wrapped up.

34. The Surgeon should, as far as possible, guard the Emigrants from harsh treatment by any subordinate person on board the Vessel, by bringing every instance of such treatment to the notice of the Commander, who should enquire into the matter, and administer such punishment as the case calls for. No punishment shall be inflicted on any Emigrant except by order of the Commander.

35. It will be the Surgeon's duty to recommend to the Commander of the Vessel for adoption such arrangements or expedients, either sanatory or otherwise, for the comfort of the Emigrants as may from time to time appear to him to be necessary or advisable.

36. The Surgeon should request the Commander to have two days every week devoted to the washing and airing of bedding and clothes, and there should be a general muster every week of all personal clothes and bedding belonging to the Emigrants. All warm clothing, according to the scale prescribed in Table No. 2, should, at the outset of the voyage, be taken an account of and held in reserve under the Commander's and Surgeon's care, to be served out to the Emigrants when a change of climate necessitates a change of raiment. The warm clothing allotted to each male or female should be marked, and the owner held responsible for its care and preservation. Extra suits of clothing, at the rate of 5 per cent. of strength, should be supplied to replace clothing irreparably damaged or rendered unfit for wear by sickness. The clothing of every Cooley dying from typhus fever, dysentery, small-pox, and cholera, should be destroyed.

37. The Surgeon must keep a watchful eye on the health of the Emigrants to discover the earliest symptoms of scurvy, fever, bowel complaint, or any other disease, in order that he may take prompt

measures to stop the progress of sickness among them, and in addition to this general observation he should muster the Emigrants at least twice on the upper deck, and by a personal inspection ascertain their state and condition.

38. On the least suspicion of scorbutic disease, the Surgeon must represent to the Commander the necessity of such change of diet as may be essentially required. He must also take especial care that none of the Emigrants, male or female, wear or lie down in damp clothes, and in short both he and the Commander should always bear in mind that on wholesome diet, cleanliness, ventilation, and recreation, materially depend the preservation of health and the comfort of the men, women, and children, who are placed under their care and control.

39. The Surgeon must keep two Registers; the one a Daily Journal in the form prescribed by the Medical Inspector of Emigrants, and the other a Special Mortality Record. In the former should be entered the Ship number, disease, and general treatment, very briefly, of every Emigrant sick during the passage. In the latter are to be entered the cases of those who die, specifying the Ship number, name, sex, and caste of every deceased Emigrant, the Villages and District of which he or she was resident, the disease which caused death, and the date of decease. A Medical history of the voyage should also be kept in full detail with a Statement of every fatal and important case occurring on board, as well as of every occurrence worthy of remark. These Records must be signed by the Surgeon, and, on arrival at the Port of debarkation, handed to the Protector of Emigrants or other proper Government Authority for transmission to the Protector of Emigrants at Calcutta.

40. The Hospital accommodation required to be provided in Emigrant Ships, under Clause 3, Section 44 of Act XIII of 1864, shall invariably be on the upper deck.

41. On arrival at the Port of debarkation, the state in which each of the Emigrants is landed, whether in perfect health, sickly, &c., should be entered in the column of remarks of the General Register in the hands of the Commander. Opposite the names of those who died on the passage should be entered "died," and the date of decease. This Register must be signed by the Commander and forwarded immediately on arrival to the Protector of Immigrants or other proper Authority at the port of debarkation for transmission to the Protector of Emigrants at Calcutta.

42. To ensure regularity and correctness in those Returns, no payment of any description is to be made to the Surgeon until the General Mortality Registers have been examined, and their correctness ascertained by the Protector of Emigrants or some other authorized Officer of Government and by the Health Officer of the Port of debarkation. They will then be countersigned by those Officers with a declaration of their correctness, and transmitted by the earliest opportunity to the Protector of Emigrants at Calcutta.

43. Surgeons proceeding in Emigrant Vessels are required to attend frequently at the Dépôts before embarkation, in order that they may become acquainted with the health and physical condition of the people they are to receive charge of.

44. The Forms of Registers referred to are those appended in and marked Nos. 7, 8, and 9. They will be supplied by the Emigration Agent at Calcutta.

Protector of Emigrants.

No. 1.

Scale of Provisions, &c., for Ships conveying Emigrants to British and Foreign Colonies.

Daily allowance for every adult passenger. Children above two and under ten years of age to receive half rations:—

<i>West Indies.</i>			<i>Mauritius or Reunion.</i>		
	<i>lbs.</i>	<i>oz. dr.</i>		<i>lbs.</i>	<i>oz. dr.</i>
Rice -	-	1 4 0	Rice -	-	1 8 0
Dholl -	-	0 4 0	Dholl -	-	0 3 0
Ghee -	-	0 1 0	Ghee -	-	0 0 8
Mustard Oil	-	0 0 8	Mustard Oil	-	0 1 0
Salt -	-	0 1 0	Salt -	-	0 1 0
Salt Fish	-	0 2 0	Salt Fish	-	0 2 0
Tan arind	-	0 0 8	Turmeric	-	0 0 4
Turmeric	-	0 0 4	Onions	-	0 1 0
Onions	-	0 2 0	Garlic -	-	0 0 4
Garlic -	-	0 0 0 $\frac{1}{2}$	Chillies	-	0 0 0 $\frac{1}{2}$
Chillies	-	0 0 0 $\frac{1}{2}$	Coriander Seeds	-	0 0 4
Black Pepper	-	0 0 1 $\frac{1}{2}$	Tabacco, Smoking	-	0 1 0
Coriander Seeds	-	0 0 2	Firewood	-	2 8 0
Mustard Seeds	-	0 0 0 $\frac{1}{2}$			
Tabacco, Smoking	-	0 0 8			
Firewood	-	2 0 0			

Water, 1 Imperial Gallon.

Fresh provisions, bread equal to three days' supply at 8 oz. per adult, sheep or goats, equal to one day's supply during every week of the voyage, or about * sheep per week for every 100 adults, must be provided. Yams, potatoes, and pumpkins are to be shipped in sufficient quantity to allow of the issue of vegetables twice a week in the proportion of $\frac{1}{2}$ a lb. per adult; also leaf tobacco at the rate of 2 oz. weekly per adult for vessels proceeding to the westward of the Cape of Good Hope. A quantity of flour should be provided for Natives of Behar and Goruckpore to make chupatees or unleavened cakes at the rate of 8 oz. of flour for 12 oz. of rice. This allowance is for Emigrants proceeding to the westward of the Cape of Good Hope.

Dry provisions for bad weather when the usual provisions cannot be cooked.

<i>West Indies.</i>			<i>Mauritius or Reunion.</i>		
Choorah for 6 days	-	At 2 lbs.	Choorah for 15 days	-	At 8 oz.
Biscuit „ 12 „	-	„ 2 „	Biscuit „ 15 „	-	„ 8 „
Gram „ 18 „	-	„ 8 oz.	Gram „ 15 „	-	„ 2 „
Sugar „ 18 „	-	„ 2 „	Sugar „ 15 „	-	„ 1 „

Memorandum of Articles required for 100 Adults for Ships proceeding to the westward of the Cape of Good Hope.

- 2 Block Tin Saucepans from 1 pint to half a Gallon.
- 3 Iron Frying Pans for making chupatees.
- 4 Iron Spoons.
- 200 lbs. of Dessicated Milk (Grimwade's.)
- 50 Bael Fruits.
- 20 Gallons Brandy.
- 10 „ Lime Juice.
- 18 Bottles of Port Wine.
- 3 Maunds Dacca Soap.
- 4 „ Chunam.
- 5 lbs. Tea.
- 4 Hexagonal Safety Candle Lanterns with spring sockets, three spare plates of glass, and a spring for each.
- 4 Iron Boilers, with covers complete.
- 2 Curry Stones, with Mullers.
- 2 Dozen Country Brooms.
- 5 Buckets to every 100 tons of Ship Register.
- 4 Sieves for cleaning rice, &c.
- 1 Hatchet for cutting wood.
- 4 Iron Ladles.
- 8 New Swabs, full size.
- 2 Bales Hay for Sheep (large size.)
- 3 Maunds Gram for Sheep.

Memorandum of Articles required for 100 Adults for Ships proceeding to the eastward of the Cape of Good Hope.

- Lime Juice - 1 dozen.
- Brandy - 1 „
- Bael Fruits - 50 in No.
- Pumpkins - 80 „
- Potatoes - 3 maunds.
- Sheep - 4 in No.
- Iron Boilers - 4 „
- Preserved Milk - 12 Gallons.
- Fowls - 24 for every 12 Infants.
- Hay for Sheep
- Gram for „ - 30 Seers for each Sheep.
- Dacca Soap - 4 oz. per adult weekly.

* West Indies, six sheep.
Mauritius and Reunion, four sheep.

Memorandum of additional Articles required for each Ship.

- Copper Pumps.
- Life Buoys.
- 2 Scuttle Butts, with lock and key.
- 2 Wash Deck Tubs.
- 2 Gallon Measures.
- 2 Half Gallon ditto.
- 2 Quarter „ ditto.
- 2 Double Cabooses.
- 4 Hanging Stoves for drying lower deck.
- Water Closets according to the number of Emigrants shipped.
- 1 Set of Scales and Weights.
- 1 Pair of Steel Yards.
- 4 White-washing Brushes.

Memorandum of additional Articles required for each Ship.

- 4 Iron Ladles.
- 2 Copper Pumps.
- 6 Lanterns.
- 2 Maunds of Cocoanut Oil.
- 6 „ „ Chunam.
- 4 Curry Stones with Mullers.
- 3 Dozen Country Brooms.
- 4 Double Water Closets.
- 2 „ „ Cabooses.
- 4 Hatchets for cutting wood.
- 18 New Swabs.
- 10 Sieves for cleaning rice, &c.
- 3 Life Buoys.
- 5 Buckets to every 100 tons of Ship Register.
- Scales and Weights equal to weighing one maund.

The following Regulations are to be observed in connection with the revised Scale of dietary :—

1. The water laid in should be of the purest description drawn from the Government Iron Tank Boats in Calcutta, and great attention should be paid to the cleanliness of the Iron Tanks or Casks in which it is carried. The Tanks should be constructed of iron of sufficient thickness. The Casks should be sweet and tight, of sufficient strength, and if of wood, properly charred inside, and shall not be more than 300 gallons each.

2. The provisions daily issued are to be divided into two portions, so that t be cooked for two meals, viz., the provisions for the morning meal to be issued sufficiently early to allow it to be ready by 9 A. M., those for the afternoon meal by 4 P. M.

3. All provisions are to be issued by an Officer specially appointed to that duty by the Master of the Ship. The issues shall be recorded day by day in a printed Form supplied for this purpose by the Emigration Agent, to be signed daily by the Issuer and Surgeon Superintendent of the Ship.

4. Two experienced Cooks, whose appointment shall be subject to the approval of the Agent, shall be employed specially and exclusively in cooking for the Emigrants, and shall perform the duties under the direction of the Surgeon Superintendent of the Ship.

5. Whenever cooking shall be prevented by bad weather or by any other cause, or shall be deemed unadvisable by the Surgeon Superintendent, choorah, biscuit, gram, and sugar, (at the discretion of the Surgeon Superintendent of the Ship) shall be issued to each Emigrant in lieu of the cooked provisions.

6. Every child under two years of age who has no mother, or whose mother is unable to nurse it, shall receive every day a pint of milk and from 3 to 6 ounces of sago or arrowroot; and every nursing mother shall receive, besides her ordinary diet, a daily allowance of a pint of milk and from 3 to 6 ounces of sago or arrowroot at the discretion of the Surgeon Superintendent of the Ship.

7. Fresh bread, at the rate of 8 ounces per adult, shall be issued at first starting for breakfast to such Emigrants as may choose to take it.

8. No alteration in the issues of provisions herein prescribed is to take place except under the express order of the Surgeon Superintendent of the Ship.

9. All deviations from the issues prescribed by these Regulations, with the reasons thereof, are to be noted in his Diary and reported to the Protector of Immigrants by the Surgeon Superintendent of the Ship on her arrival at the Port of destination.

NOTE.—Two-thirds of the allowance of fresh meat (sheep), salt fish, and vegetables required for Vessels proceeding to the westward of the Cape of Good Hope, is to be taken at Calcutta, the remainder either at the Cape of Good Hope or St. Helena. The prescribed quantity, according to Scale, is to be laid in at Calcutta before sailing for Mauritius or Reunion.

The length of a voyage to Mauritius or Reunion is reckoned to be ten weeks between the months of April and October inclusive, and eight weeks between November and March.

The length of a Voyage to the West Indies is twenty weeks.

No. 2.

CLOTHING.

List of Clothing and Utensils to be supplied to each Emigrant proceeding to the West Indies.

<i>For each Male.</i>	<i>For each Boy.</i>
One suit of Woollen Garments, consisting of	1 Woollen Trowser and one Woollen Chupkun or Coat.
1 Trowser and	1 Patna Blanket.
1 Chupkun or Coat.	2 Madras Cloth and one Linen Dhooties, of three yards each.
2 Patna Blankets.	1 Jean Jacket.
2 Madras Cloth and one Linen Dhooties, of four yards each.	1 Ditto Trowser.
1 Jean Jacket.	1 White Calico Cap.
1 Ditto Trowser.	1 Woollen Red „
1 White Calico Cap.	1 Tin Plate.
1 Woollen Red „	1 Tin Drinking Cup.
1 Tin Plate.	
1 Tin Drinking Cup.	
<i>For each Female.</i>	<i>For each Girl.</i>
2 Patna Blankets and 1 Woollen Petticoat.	1 Patna Blanket and a Woollen Petticoat.
2 Grey Shirting Printed Sarries and a Linen ditto, of six yards each.	2 Grey Shirting Sarries and a Linen ditto, of three yards each.
1 Woollen Koortah.	1 Woollen Koortah.
1 Chintz Gown.	1 Tin Plate.
1 Tin Plate.	1 Tin Drinking Cup.
1 Tin Drinking Cup.	

Each infant is allowed one Madras Cloth Dhooty of two yards, one colored Koortah, one white Calico Cap, and one Woollen Red Cap.

MEMORANDUM.

One suit for each person to be packed for cold weather; eighteen Flannel Bandages are supplied in each Ship for the use of the Sick.

*List of Clothing to be supplied to each Emigrant proceeding to Mauritius and Reunion.**For each Male.*

- 2 Grey Shirting Dhooties, of four yards each.
- 1 Patna Blanket.
- 1 Flannel Banian.
- 1 Grey Shirting Jacket.
- 1 Chintz Cap.

For each Female.

- 1 Patna Blanket.
- 2 Grey Shirting Sarries, of six yards each.
- 1 Flannel Banian.

For each Boy.

- 1 Patna Blanket.
- 2 Grey Shirting Dhooties, of three yards each.
- 1 Flannel Banian.
- 1 Grey Shirting Jacket.
- 1 Chintz Cap.

For each Girl.

- 1 Patna Blanket.
- 2 Grey Shirting Sarries, of three yards each.
- 1 Flannel Banian.

For each Infant.

- 1 Dhooty of two yards each.

No. 3.

Proportion of Medicines necessary for a Ship carrying Emigrants from the East to the West Indies, five months' voyage.—Weights Avoirdupois.

NAMES OF MEDICINES.	For 100 Persons.			For 200 Persons.			For 300 Persons.			For 350 Persons.		
	lbs.	oz.	dr.	lbs.	oz.	dr.	lbs.	oz.	dr.	lbs.	oz.	dr.
Calomel	...	3	...	...	4	...	...	6	...	...	7	...
Blue Pill	...	3	...	...	4	...	...	6	...	...	7	...
Rhubarb Powder	...	2	...	...	4	...	...	6	...	...	7	...
Compound Jalap Powder	...	4	...	...	8	...	...	12	...	...	12	...
Ipecacuanha Powder	...	12	1	...	8	...	2	4	...	2	8	...
Opium	...	4	...	...	8	...	...	12	...	...	14	...
Dover's Powder	...	2	...	...	3	...	...	4	...	...	5	...
Carbonate of Magnesia	...	2	...	...	4	...	...	6	...	...	7	...
Epsom Salts	3	...	...	6	...	...	9	...	...	10	...	...
Chloride of Lime	30	...	...	50	...	...	70	...	...	80	...	...
Tartar Emetic	...	4	...	...	...	...	...	12	...	...	14	...
Quinine	...	4	...	...	5	...	...	6	...	...	7	...
Antimonial Powder	...	8	...	...	1	...	...	1	8	...	1	12
Compound Extract of Colocynth	...	2	...	...	3	...	...	4	...	...	4	...
Carbonate of Ammonia	...	1	8	...	2	...	...	2	8	...	2	12
Camphor	...	4	...	...	6	...	...	8	...	...	9	...
Prepared Chalk	...	8	...	...	12	...	1	...	...	1	2	...
Tincture of Opium	...	8	...	1	...	...	1	...	...	8	1	12
Ipecacuanha Wine	...	8	...	1	...	...	1	...	...	8	1	12
Turpentine	...	1	...	1	...	8	2	...	...	2	4	...
Senna Leaves	...	8	...	1	...	...	1	...	...	8	1	12
Blistering Plaster	...	8	...	...	12	...	1	...	...	1	2	...
Sulphur Sublimed	1	...	...	1	4	...	1	...	...	8	1	10
Sulphur Ointment (simple)	...	12	...	1	4	...	1	12	...	2	...	...
Linseed Flour	4	...	...	8	...	...	12	...	...	14	...	...
Castor Oil	6 btls.	...	...	12 btls.	...	...	18 btls.	...	...	21 btls.	...	...
Oil of Peppermint	...	2	...	...	3	...	...	4	...	...	4	8
Adhesive Plaster (spread)	4 yds.	...	...	6 yds.	...	...	8 yds.	...	...	9	...	...
Simple Ointment	1	...	...	1	8	...	2	...	...	2 yds.	4	...
Ringworm Ointment*	1	...	...	1	8	...	2	...	...	2	4	...
Jeremie's Opiate	...	2	...	...	4	...	...	6	...	...	7	...
Aromatic Spirits of Ammonia	...	4	...	...	6	...	...	8	...	...	9	...
Cholera Pills in phial†	6 dozs.	...	...	9 dozs.	...	...	12 dozs.	...	...	12 dozs.	...	...
Camphor Liniment (simple)	1	...	...	1	8	...	2	...	...	2	4	...
Cubeb Powder	1	...	...	1	8	...	2	...	...	2	4	...
Sweet Spirits of Nitro	...	8	...	1	...	...	2	...	...	2	...	...
Copaiba	...	8	...	1	...	...	1	...	...	8	1	12
Sulphate of Copper	...	1	...	...	2	...	...	3	...	...	3	...
Sulphate of Zinc	...	1	...	...	2	...	...	3	...	...	3	8
Lunar Caustic	...	8	...	...	12	...	...	1	...	...	1	8
Prepared Lint	...	8	...	...	12	...	1	...	...	1	4	...
Strongest American Sheeting for Bandages	18 yds.	...	...	24 yds.	...	...	30 yds.	...	...	30 yds.	...	...
Blistering Fluid	...	4	...	...	5	...	...	6	...	...	6	...
Grey Powder	...	2	...	...	3	...	...	4	...	...	4	...
Sulphuric Acid	...	2	...	...	3	...	...	4	...	...	4	...
Tincture of Catechu	...	8	...	1	...	...	1	...	...	8	2	1
Hydrochl. of Morphia	...	...	1	...	2	...	...	...	...	...	12	2
Chloroform	...	2	...	2	...	3	...	4	...	...	4	...
Chiretta	...	2	...	2	...	8	3	...	...	3	4	...
Friar's Balsam	...	2	...	...	3	...	...	4	...	...	4	...
Goulard's Extract	...	3	...	...	6	...	...	9	...	...	10	...
Sugar of Lead	...	2	...	...	3	...	...	4	...	...	4	...
Turner's Cerate	...	8	...	1	...	...	1	...	...	8	1	12
Strong Mercurial Ointment	...	8	...	...	2	...	1	...	...	1	2	...
Alum	...	8	...	...	2	...	1	...	...	1	2	...
Olive Oil	1	...	...	1	...	8	2	...	...	1	2	...
Paregoric Elixir	...	12	...	1	...	8	2	...	...	2	4	...
Nitrate of Potass	...	4	...	...	6	...	...	8	3	...	9	3
Creosote	...	...	1	...	2	...	...	...	...	...	...	...
Gallie Acid	...	4	...	...	6	...	...	8	...	...	10	...
Tincture of Squills	1	...	...	1	...	8	2	...	...	2	8	...
Burnett's Disinfecting Fluid	10 glns.	...	...	20 glns.	...	...	30 glns.	...	...	30 glns.	...	...
Tincture of Iodine	...	2	...	...	4	...	...	6	...	...	7	...
Essence of Ginger	...	1	...	...	2	...	...	3	...	...	4	...
Sesqui-Carbonate of Soda	...	4	...	...	8	...	...	12	...	...	12	...
Compound Chalk Powder with Opium	...	4	...	...	8	...	...	12	...	...	12	...
Compound Kino Powder	...	4	...	...	8	...	...	12	...	...	12	...
Gregory's Powder	...	12	...	1	...	8	2	...	...	4	2	8
Ginger Powder	...	2	...	...	3	...	...	4	...	...	4	...
Europe Mustard	1	...	...	1	...	8	2	...	...	2	4	...
Vinegar	1	...	...	1	...	8	2	...	...	2	4	...

* R. Ung: Hydrarg: Nitrat. $\frac{3}{4}$ i.
Sulphur: Sublimat: $\frac{3}{4}$ ij.
Adipis: Prepar: $\frac{3}{4}$ ij.
m Ft. ung.

† R. Hydrarg: Chlorid: gr. x.
Opil.
Camphoræ aa gr. ij.
m Ft. Pil. ij.

NAMES OF MEDICINES.	For 100 Persons.			For 200 Persons.			For 300 Persons.			For 350 Persons.		
	lbs.	oz.	dr.	lbs.	oz.	dr.	lbs.	oz.	dr.	lbs.	oz.	dr.
Compound Rhubarb Pill	...	2	...	...	3	...	...	4	...	...	4	...
Purgative Pills*	No.	100	...	No.	150	...	No.	200	...	No.	225	...
Diarrhoea Pills†	...	100	...	...	150	...	...	200	...	...	225	...
Leeches	...	50	...	...	75	...	...	100	...	...	100	...
Gum Arabic (Powder)	...	6	...	...	8	...	...	10	...	...	10	...
Tartaric Acid	...	1	...	...	2	...	...	3	...	...	3	...
Croton Oil	...	2	...	...	3	...	...	4	...	...	4	...
Scammony	...	1	...	...	1	...	...	2	...	...	2	...
Sulphate of Iron	...	1	...	...	1	...	...	2	...	...	2	...
Extract of Gentian	...	1	...	...	2	...	...	3	...	...	3	...
Iodide of Potassium	...	1	...	...	2	...	...	3	...	...	3	...
MEDICAL COMFORTS (IN TIN.)												
Sago	10	...	...	20	...	...	30	...	...	35	...	...
Arrowroot	10	...	...	20	...	...	30	...	...	35	...	...
Oatmeal	10	...	...	20	...	...	30	...	...	35	...	...
Soojee	10	...	...	20	...	...	30	...	...	35	...	...
Sugar	1	...	...	20	...	...	20	...	...	35	...	...

N. B.—The Aromatic Spirit of Ammonia, Sulphuric Acid, and Tincture of Iodine should be in glassstoppered bottles.

The quantity of each medicine supplied should be marked on the outside of the bottle or packet containing it.

INSTRUMENTS.

Sponges	...	oz.	4
Case of Instruments containing Tourniquet, Artery Forceps, Dissecting Forceps, three Amputating Knives, three Scalpels, one Gum Lancet, Tooth Instruments, (viz., three pairs Forceps Elevator and Key), Trephine, Amputating Saw, Probang, Bone Forceps, Needles, Ligature Silk, Silver Catheters Nos. 9 and 2	...	No.	1
Two ounce Glass Measures	...	...	2
Minim Measures	...	...	2
Pewter Pint (z. xx.) Measure	...	...	1
Pestle and Mortar (Wedgewood)	...	...	1
Scales and Weights in Box (grain)	...	...	1 set.
Common Splints	...	...	2 sets.
Tow	...	lbs.	2
Spatulas	...	...	2
Pocket Dressing Case containing Dressing Forceps, Dissecting Forceps, Tinaculum, Dressing Scissors, sharp pointed curved Bistoury, two Probes, one Director, Caustic Holder, two Bleeding Lancets, one Abscess Lancet	...	...	1
Tin Funnels	...	...	2
Infusion Pots	...	...	2
Metal Bed Pans	...	...	1 for every hundred men.
Read's Enema Syringe and Stomach Pump	...	...	1
Urethra Syringe	...	...	1 for every hundred men.
Pewter Enema Syringe (oz. 4)	...	...	1
Blood Porringer (oz. 16)	...	...	1
Country Flannel	...	...	10 yards for every hundred men.
Country Paper	...	...	1 quire for every hundred men.
Penknife	...	...	1
Corks	...	...	1 dozen phial, 1 dozen bottle.
Slab for Pills	...	...	1
Pins	...	...	6 dozens.
4 Oz. Pewter Pots for administering medicine	...	...	6
Iron Table Spoons	...	...	6
Gallon block-tin Saucepan	...	...	1
$\frac{1}{2}$ Ditto ditto ditto } with covers complete	...	...	2
$\frac{1}{4}$ Ditto ditto ditto }	...	...	2

We hereby certify that medicines, &c., for above scale, have been supplied for the Ship

men, according to the proceeding to the West Indies.

* Purgative Pills.
℞ Ext. Colocynth Co: $\frac{3}{4}$ ss.
℞ Rhei. Co:
Pulv. Scammon: aa gr. xv.
℞ Ft. Pil: xij—Two or three the dose.

† Diarrhoea Pills.
℞ Cupri Sulphat. gr. xij.
Opil. gr. xij.
℞ Ft. Pil: xij—One thrice daily.

Proportion of Medicines necessary for a Ship carrying Emigrants to Mauritius or Bourbon.

NAMES OF MEDICINES.	For 100 Men.	For 200 Men.	For 300 Men.	For 400 Men.
Rhubarb Powder	One ounce	One half ounce	Two ounces	Two half ounces.
Dover's ditto	Half ounce	One ounce	One and half ounces	Two ounces.
Epsom Salts	Four ounces	Six ounces	Eight ounces	1 lb.
Carb. Magnesia	Half ounce	Half ounce	One ounce	One ounce.
Carb. Ammonia	Half ounce	Half ounce	Half ounce	Half ounce.
Senna Leaves	Two ounces	Three ounces	Four ounces	Four ounces.
Nitrate of Potass	One ounce	One ounce	Two ounces	Two ounces.
Grey Powder	Quarter ounce	Quarter ounce	Quarter ounce	Quarter ounce.
Carbonate of Soda	One ounce	One ounce	One ounce	One ounce.
Purgative Pills	No. 50	No. 50	No. 50	No. 100.
Calomel	One ounce	Two ounces	Three ounces	Four ounces.
Blue Pill	One ounce	Two ounces	Three ounces	Four ounces.
Compound Jalap Powder	Six ounces	Eight ounces	Twelve ounces	Sixteen ounces.
Ipecacuanha Powder	One ounce	One ounce and half	Two ounces and half	Three ounces.
Opium	Two ounces	Four ounces	Six ounces	Eight ounces.
Chloride of Lime	Ten pounds	Twenty pounds	Thirty pounds	Forty pounds.
Tartar Emetic	Two drachms	Four drachms	Six drachms	One ounce.
Quinine	One ounce	One ounce and half	Two ounces	Two ounces and half.
Antimonial Powder	Two drachms	Four drachms	Six drachms	One ounce.
Camphorated Liniment	Eight ounces	Twelve ounces	Sixteen ounces	Twenty ounces.
Prepared Chalk	Two ounces	Four ounces	Six ounces	Eight ounces.
Tincture of Opium	Four ounces	Eight ounces	Twelve ounces	Sixteen ounces.
Turpentine	Eight ounces	Twelve ounces	One Pint	Twenty ounces.
Sulphur Ointment	Six ounces	Eight ounces	Twelve ounces	One pound.
Linseed Flour	Two pounds	Four pounds	Six pounds	Eight pounds.
Country Soap	Twelve ounces	One pound and half	Two pounds	Three pounds.
Castor Oil	Three bottles	Four bottles	Eight bottles	Twelve bottles.
Oil of Peppermint	Two drachms	Four drachms	Six drachms	One ounce.
Adhesive Plaster (spread)	One yard	Two yards	Two yards	Two yards.
Simple Ointment	Eight ounces	Twelve ounces	One pound	One pound and half.
Ringworm ditto	Eight ounces	Twelve ounces	One pound	One pound and qr.
Jeremie's Opiate	1 oz. phial	2 oz. phial	3 oz. phial	4 oz. phial.
Cholera Pills, in phial	Six dozens	Six dozens	Six dozens	Six dozens.
Sweet Spirit of Nitre	Eight ounces	One pound	One pound	One pound.
Sulphate of Copper	One ounce	One ounce	One pound	One ounce.
Ditto of Zinc	Half ounce	Half ounce	Half ounce	Half ounce.
Lunar Caustic	One drachm	Two drachms	Three drachms	Four drachms.
Acid Sulph. Dil	One ounce	Two ounces	Three ounces	Four ounces.
Cerat Resinæ	One ounce	Two ounces	Three ounces	Four ounces.
Chiretta	Five pounds	Ten pounds	Fifteen pounds	Twenty pounds.
Liq. Ammonia	Three ounces	Six ounces	Nine ounces	Twelve ounces.
Liquor Lytta	One ounce	Two ounces	Three ounces	Four ounces.
Liquor Arsenicalis	One ounce	Two ounces	Three ounces	Four ounces.
Pulmbi Diacet	Two ounces	Four ounces	Six ounces	Eight ounces.
Pulv. Kino Co.	Two ounces	Four ounces	Six ounces	Eight ounces.
Tincture of Kino	Two ounces	Four ounces	Six ounces	Eight ounces.
INSTRUMENTS.				
Glass Measure (1 oz.)	One	One	One	One.
Ditto ditto (drop)	One	One	One	One.
Pestle & Mortar (Wedgewood)	One	One	One	One.
Scales and Weights (grains)	One set	One set	One set	One set.
Splints (common)	One set	One set	One set	One set.
Lint (prepared)	Two ounces	Three ounces	Four ounces	Six ounces.
Long Cloth for Bandages	One piece	Two pieces	Two pieces	Two pieces.
Lancets (bleeding)	One	One	Two	Two.
Silver Catheter (middle size)	One	One	One	One.
Spatula	One	One	One	One.
Scissors, Dressing	One	One	One	One.
Infusion Pots	One	Two	Two	Two.
Bed Pans (metal)	Two	Two	Three	Three.
Country Paper	One quire	One quire	Two quires	Two quires.
Penknife	One	One	One	One.
Flannel, coarse, country	Two yards	Four yards	Six yards	Eight yards.
Pins	One paper	Two papers	Three papers	Four papers.
Pil Tile	One	One	One	One.
Fine Tow	One pound	Two pounds	Three pounds	Four pounds.
Mustard	One bottle	Two bottles	Three bottles	Four bottles.
Pewter Enema Syringe, 4 oz.	One	One	One	One.
Urethra Syringe	One	One	One	One.
Pocket Dressing Case	One	One	One	One.
Tin Funnel	One	One	One	One.

Medicines required for immediate use whilst proceeding down the River to be supplied from the above List.

Liq. Ammonia	Two ounces.
Cholera Pills, in a phial	Six dozens.
Calomel	Half ounce.
Opium	Half ounce.
Quinine	Half ounce.
Laudanum	Two ounces.
Oil of Peppermint	One drachm.

Drop Measure.
Scales and Weight.
Spatula.
Lancet.
English Labels to be affixed.

The following Medical comforts are also to be provided and packed in Tin Canisters.

Sugar	10 lbs.	per	100	adults.
Sago	5 lbs.	"	"	"
Arrowroot	5 lbs.	"	"	"
Soojee... ..	5 lbs.	"	"	"
Gallon Block-tin Saucepan	...	} With covers complete		1
" " " "	...			2
" " " "	...			2
" " " "	...			2

I hereby certify that medicines, &c., for
have been supplied for the Ship

men, according to the above Scale,
proceeding to Mauritius or Bourbon.

Calcutta, _____

No. 4.

Report of the quantity of Provisions and Water for
, Captain *for* *weeks on board the Ship*
Emigrants proceeding to

Articles.	Quantity.			No.	REMARKS.
		Mds.	S.	C.	
					Here state the description and quantity of stores taken on board for the Crew.
					Here state the number of gallons of water for the Officers and Crew.

I hereby certify that the quantity of provisions and water above enumerated for the use of
Native Emigrants is actually on board the _____ under
my command, and that the same is of quality equal to the musters furnished by me to the Protector
of Emigrants' Office.

Calcutta, _____ }
The of 186 _____ Commander.

No. 5.

Ship

River Hooghly

The

Certified that I have examined the provisions and water on board this Ship, and found the former
wholesome and the latter sweet.

I also certify that the cabooses, cooking pots, and water closets are properly fitted up, and that the
Ship is white-washed between-decks; that she has on board two copies of the Emigration Act, a copy
of Piddington's Work on the Law of Storms, and the Medical Instructions supplied by the Emigration
Agent; has no vicious dogs or wild animals on board, and she has a platform over the Long Boat;
that her upper decks are clear for Sea; and that she is in a proper state to receive Emigrants on board.

Protector of Emigrants.

No. 6.

ORIGINAL

*Statement of the Crew and Passengers (Natives of India) proceeding in the
bound to*

NATIVE CREW.	Numbers.
Serangs, Lascars, &c.	- - - - -
Commander and Officers' Servants	- - - - -
Passengers' Servants	- - - - -

Native Passengers.

Names.	Age.	Caste.	Occupation.
This should merely contain the number of persons of each sex embarked as			
Men, Women, Children above 10 years of age.			

Commander.

Calcutta,
The

}

Protector of Emigrants.

MEMORANDUM.

Under the orders of Government, the Officer in pilotage charge of the is to receive this document from the Preventive Officer on the latter quitting the Ship, and should any attempt be made to take on board Natives of India not included in this Statement, the Vessel is to be stopped, and the circumstance reported, document is to be returned to

Protector of Emigrants.

No. 7.

Surgeon's Mortality Register.

Ship Number.	Age.	Sex.	Disease.	Date of Decease.	REMARKS.

No. 8.

General Register of Emigrants embarked on the Ship for

Ship No.	Name.	Age.	Father's name and occupation.	Sex.	Village.	Pergunnah.	Zillah.	State of health on embarkation.	State of health on arrival at destination.	REMARKS.

No. 9.

SURGEON'S GENERAL REGISTER OF SICK.

*Date.**Latitude.**Longitude.*

Ship Number.	Sex.	Disease.	General Treatment.	RESULT.

Each day should have a page or more if necessary. The Latitude and Longitude to be entered from the observation at noon.

The record of general treatment to be of the briefest description, *e. g.*,—

Ship Number.	Sex.	Disease.	General Treatment.	RESULT.
195	Male ...	Chronic Dysentery ...	Acit P. B. O. Opium ...	Improvement.

Should death occur the time of decease should be mentioned—as died at 3 p. m.

No. 10.

Surgeon Superintendent's Report of the Medical History of the Voyage of the Ship _____
commanded by _____ *carrying Coolie Emigrants from Calcutta to* _____

Date of Embarkation _____

EMIGRANTS.	Men.	Women.	CHILDREN.		INFANTS.		Total No. of Souls.
			Male.	Female.	Male.	Female.	
Embarked ...							
Born on the Voyage ...							
Died on the Voyage ...							
CAUSES OF DEATH.							
Cholera ...							
Diarrhœa ...							
Dysentery ...							
Chest Affections ...							
Fevers ...							
Accidents ...							
Other Diseases ...							
Total ...							

	The Sand-heads.	The Equator.	The Tropic.	The Cape of Good Hope.	The Tropic.	The Equator.	Port.
Dates of arrival at ...							

Abstract of the condition of the Emigrants on arrival at the Colony.

EMIGRANTS.	Men.	Women.	CHILDREN.		INFANTS.		Total No. of Souls.
			Male.	Female.	Male.	Female.	
Landed in Health ...							
„ Convalescent ...							
Sent to Hospital ...							
Total ...							

Weekly Abstract of admissions to the Sick List and of deaths during the Voyage.

DISEASES.	1st Week.		2nd Week.		3rd Week.		4th Week.		5th Week.		6th Week.		7th Week.		8th Week.		9th Week.		10th Week.		11th Week.		12th Week.		13th Week.		14th Week.		15th Week.		16th Week.		17th Week.		18th Week.		19th Week.	
	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.	Ad.	D.		
Cholera																																						
Diarrhoea																																						
Dysentery																																						
Chest Affections																																						
Fevers																																						
Accidents																																						
Other Diseases																																						
Total																																						

GENERAL REMARKS ON

1. The Provisions and Water.
2. The working of the Distilling Apparatus.
3. The Medicines and Medical Comforts.
4. The Ship and her ventilation.
5. The conduct of the Officers.
6. The conduct of the Interpreters, Sirdars, Topases, &c.
7. The clothing of the Emigrants.
8. The means used for insuring cleanliness.
9. The employment of Disinfectants.
10. General observations and suggestions.

Surgeon Superintendent of the

Ship _____

Number of previous voyages with European Emigrants _____

Ditto

ditto

with Coolies _____

E. C. BAYLEY,
Secy. to the Govt. of India.

FOREIGN DEPARTMENT.

MILITARY.

No. 141.

Fort William, the 28th March 1865.

The following order issued by the Officer Commanding Central India Horse, dated 3rd instant, is confirmed by the Governor General in Council:—

“Captain F. P. Luard, Officiating 2nd Squadron Officer, 1st Corps, to officiate as 2nd in Command of that Corps, in addition to his other duties, pending the return of Captain C. James from sick leave, or till further orders.”

POLITICAL.

No. 284.

The 31st March 1865.

Erratum.—In G. O. No. 224, dated 13th instant, for “7th March,” read “8th March.”

GENERAL.

No. 731.

The 28th March 1865.

Lieutenants D. W. Laughton and A. G. W. Hemans appointed in G. O. No. 606, dated 16th instant, to be Assistant Commissioners, 3rd Class, in the Berars, joined their appointments respectively on the 16th January and 1st February 1865.

No. 733.

Captain C. Martin, 2nd in Command, 2nd Corps, Central India Horse, received charge of the Office of Political Assistant at Goona, from Colonel H. D. Daly, c. b., on the forenoon of the 1st instant.

Colonel H. D. Daly, c. b., assumed charge of the Office of Political Assistant in Western Malwa, on the afternoon of the 3rd idem, from Lieutenant E. R. C. Bradford.

No. 747.

The 30th March 1865.

Lieutenant W. Tweedie, Officiating 2nd Assistant to the Resident at Hyderabad, has passed an examination in Persian under the provisions of G. G. O. No. 734, dated 9th September 1864.

No. 748.

Lieutenant W. Tweedie, appointed in G. O. No. 619, dated 16th instant, to officiate as 2nd Assistant to the Resident at Hyderabad, assumed charge of his duties on the forenoon of the 9th idem.

No. 755.

The 31st March 1865.

Mr. W. B. Jones, c. s., is appointed to be Deputy Commissioner of the Wurdah District, in the Central Provinces.

Lieutenant A. Bloomfield, Assistant Commissioner, Central Provinces, is appointed to officiate as Deputy Commissioner of the Wurdah District, as a temporary arrangement.

A. COLVIN,

Offg. Under Secy. to the Govt. of India.

FINANCIAL DEPARTMENT.

No. 1765.

Fort William, the 29th March 1865.

The following correspondence is published for general information:—

From E. H. LUSHINGTON, Esq., Secy. to Govt. of India, Finl. Dept., to Secy. to Govt. of Fort St. George,—(No. 3609, dated 30th November 1864.)

I am directed to acknowledge the receipt of your letter No. 1970 of the 25th October 1864, from the enclosures of which it appears that a retrenchment made by the Civil Pay Master, Madras, on account of the pay of the Serishtadar of the Dindigul Talook in Madras, who was allowed privilege leave for three months, of which only two months' leave had been earned before the promulgation of the new rules for the grant of leave of absence to Uncovenanted Servants, was remitted by the Government of Madras, firstly, because the Resolution No. 3478, passed in this Department on the 31st July 1863, intended to allow Uncovenanted Officers who had already earned accumulated privilege leave under the old rules, to “retain that leave, *plus* whatever they could earn under the new, provided the aggregate does not exceed the maximum period of three months;” and, secondly, because the Leave Rules do not apply to servants on less than Rupees 100 per mensem.

2. In reply I am desired to forward a copy of a letter No. 343, dated the 24th May 1864, to the address of the Secretary to the Government of Bombay, from which it will be seen that the Madras Government has not correctly interpreted the Resolution of the 31st July 1863, and to draw attention to the orders noted in the margin, declaring that the spirit of the new Leave Rules should be observed in the cases of Uncovenanted Servants on less than Rupees 100 per mensem. The remission, however, of the retrenchment against the Serishtadar of the Dindigul Talook is confirmed, as a special case.

From J. D. SIM, Esq., Secy. to Govt. of Fort St. George, to Secy. to Govt. of India, Finl. Dept.—(No. 396—437, dated 23rd February 1865.)

I am directed to request that His Excellency the Governor in Council may be informed of the precise meaning of the ruling conveyed in paragraph 2 of your letter to my address, dated 30th November last, No. 3609, viz., that “the spirit of the new Leave Rules should be observed in the cases of Uncovenanted Servants on less than Rupees 100 per mensem.”

2. In the instance which led to the above ruling, this Government, in dealing with a case of special hardship, remarked that the Leave Rules do not apply *with the same strictness* to Officers drawing less than Rupees 100 per mensem as to those drawing that sum or more. From your reply above quoted, it would, however, seem that the rules apply with at least equal strictness to all Uncovenanted Officers.

3. Another case has now occurred in which a Clerk on 25 Rupees per mensem who obtained private leave in February 1859, was granted similar leave in March 1864. A moiety of his pay

during the latter leave is available, but the Civil Pay Master objects to its disbursement, because, under the rules, a second leave on private affairs cannot be taken by a servant drawing 100 Rupees and upwards until the expiration of six years.

4. The Civil Pay Master, if correct, in fact applies the *letter* of the rules to these officers, whereas the ruling of the Supreme Government seems to imply that it is not the *letter* but the *spirit* of the rules which is applicable. The Governor in Council would be glad, under these circumstances, of a fuller expression of the wishes of the Supreme Government for his guidance.

From E. H. LUSHINGTON, Esq., Secy. to Govt. of India, Finl. Dept., to Chief Secy. to Govt. of Madras,—(No. 1666, dated 28th March 1865.)

In reply to your letter No. 396, dated the 23rd February 1865, I am desired to inform you that the spirit in which the Rules for leave of absence to Uncovenanted Servants should be applied to servants drawing less than Rupees 100 monthly, is explained in my letter to the Civil Pay Master, Madras, No. 3654, dated 10th August 1863, a copy of which was duly communicated to you.

2. With reference to the inquiry whether the Leave Rules should be applied *with the same strictness* to servants on less than Rupees 100 a month as to those drawing that sum and more, I am to state that Local Governments may, at their discretion, grant other than privilege leave, to the former class of servants, in excess of the periods prescribed for servants on Rupees 100 and upwards, seeing that such leave will not count for pension.

E. H. LUSHINGTON,
Secy. to the Govt. of India.

MILITARY DEPARTMENT.

Fort William, the 27th March 1865.

No. 318 of 1865.—The following Royal Warrant of 7th January 1865 is published for general information, and under the authority of the Right Hon'ble the Secretary of State for India; the same is declared applicable to India, with effect from the 1st January 1865 :—

Circular No. 893.—(Pay of Regimental Sergeant Majors.)

30

Genl. No.
721

HOME AND FOREIGN.

Victoria R.

Whereas it has been represented to Us, that it is expedient to improve the position of Regimental Sergeant Majors of Regiments and Battalions of Our Infantry of the Line, Our Will and Pleasure is that the pay of such Sergeant Majors shall, from the first day of January 1865, be raised from three shillings and two pence to three shillings and four pence a day.

Given at Our Court at St. James's, this 7th day of January 1865, in the Twenty-eighth year of Our Reign.

By Her Majesty's Command,
(Sd.) DeGREY AND RIFON.

The 28th March 1865.

No. 319 of 1865.—Major J. Shand, of the late 51st Regiment Madras Native Infantry, is permitted, at his own request, to resign his appointment of Doing-duty Officer in the 1st Infantry Hyderabad Contingent, and his services are accordingly placed at the disposal of the Government of Fort St. George.

No. 320 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointments :—

HYDERABAD CONTINGENT.

1st Infantry.

Lieutenant E. W. Shaw, Paid Doing-duty Officer and Officiating Adjutant, 5th Infantry, to be Paid Doing-duty Officer, vice Major Shand, resigned.

5th Infantry.

Captain A. Drury, Officiating Doing-duty Officer, 4th Infantry, to be paid Doing-duty Officer, vice Lieutenant Shaw, transferred to the 1st Infantry, but to continue to do duty with the 4th Infantry, until further orders.

3rd Infantry.

Lieutenant A. F. Dobbs, Officiating Doing-duty Officer, to be Paid Doing-duty Officer, vice Lieutenant Barnett, who vacates the appointment, having obtained an extension of leave beyond the prescribed period.

No. 321 of 1865.—The services of the under-mentioned Medical Officers are placed temporarily at the disposal of the Government of Bengal, with effect from the 3rd January last :—

Surgeon J. C. Bow, M. D., Garrison Surgeon of Chunar.

Assistant Surgeon B. W. Switzer, F. R. C. S. I.

No. 322 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

Major George Weld, of the }
Bengal Staff Corps, Fort } For 20 months.
Adjutant, Chunar.

Captain Henry Dyke Marsh, }
of Her Majesty's 82nd Foot, } under the new
Brigade Major, Umballa. } Regulations.

No. 323 of 1865.—The following orders issued by the Resident at Hyderabad are confirmed :—

No. 43, dated 8th March 1865.—Granting Lieutenant R. F. Doig, Paid Doing-duty Officer, 2nd Infantry Hyderabad Contingent, two months' leave of absence on urgent private affairs, in continuation of the privilege leave allowed him.

No. 44, dated 11th March 1865.—The services of Lieutenant W. Tweedie, Adjutant, 1st Cavalry Hyderabad Contingent, are made available for Civil duty in the Hyderabad Residency from the 8th instant.

No. 324 of 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 27, dated 9th February 1865, and

the War Office Circular therein referred to, are published for general information and guidance, and the provisions of the Circular are declared applicable to India.

2. His Excellency the Commander-in-Chief in India is requested to issue the necessary orders for carrying out the instructions contained in Sir C. Wood's letter.

MILITARY.

INDIA OFFICE,

No. 27.

London, 9th February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR,—Having been informed by the Secretary of State for War that, in consequence of Officers Commanding British Regiments in India not complying with the provisions of the War Office Circular No. 720 of 1861 (sent out in my Despatch No. 458 of 1861), errors have arisen, and are likely again to occur, in the settlement of the clothing compensation claims of men who arrive in this country from India.

2. I have to request that you will cause the provisions of the Circular in question to be made applicable to India, and to give instructions to Officers Commanding British Regiments serving in India that all compensation in lieu of clothing (including the extra articles) should be paid at the Regiment to the end of the month preceding the date of the men leaving it, and to no later date; that no compensation should be drawn in India for remittance to the men in this country for any time subsequent to that date, the Paymasters in England being authorized by the Circular to pay it; and further, that if any double payment should arise from inattention to this Regulation, the Officer signing the Return will be held responsible.

3. In order also to prevent the delay which occurs in the issue of such compensation to the legal representatives of a deceased Soldier, and to save much correspondence, directions should be given that when a Soldier dies in India, the clothing compensation due to him to the date of his

death should be credited by the Regiment with his other effects in the Casualty Return, and that it should be stated on the Return that such is the case.

I have, &c.,

(Sd.) C. Wood.

Circular No. 720.

HOME AND FOREIGN.

51.

Genl. No.

2330.

WAR OFFICE,

16th October, 1861.

SECRETARY SIR GEORGE LEWIS having had under consideration the system at present pursued in the settlement of claims of discharged men for compensation in lieu of clothing, has decided that all such claims shall in future be adjusted prior to the men receiving their discharge, either at the Depôts of their Regiments or at the Invalid Depôt.

Officers Commanding Regiments and Corps at Home, Abroad, and in India, have been accordingly directed to send home, with the other documents which are required to accompany a soldier transferred to another corps, or to the Invalid Depôt, a Return, (W. O. F. 32,) a copy of which is annexed, carefully filled up and certified by them.

Upon receipt of this document, Paymasters are authorized to act upon the information therein given, and to settle each man's claim for compensation up to the day of his discharge, without special reference to this Office, as heretofore, and should any man on arrival be transferred to another Regiment or Depôt for discharge or otherwise, an extract of the Return alluded to, showing the state of his clothing accounts, should be invariably sent with him.

The amount paid should be charged in the Paymaster's accounts, under Vote 9, Item 46, supported by the Return and the receipt of the man to whom compensation has been paid.

B. HAWES.

Regiment of _____

(W.O.F. 32.)

RETURN of Men proceeding from _____ to the _____ shewing the Articles of Clothing issued to _____ or the amount of compensation paid in lieu thereof for the year 18

(Station) _____ day of _____ 18

Regimental No.	Rank and Name.	Articles of Clothing issued for the year 18						Compensation paid in lieu of clothing.	Date to which Clothing has been issued or compensation paid.	Signature of the Soldier.
		Chaco.	Tunics.	Trows.	Boots.					

MEMORANDUM :—

Officers Commanding will be careful to render this Return with all men transferred to other Corps, to the Invalid Depôt, or to or from the Depôts.

Quarter Master.

Commanding

Regiment of _____

No. 325 of 1865.—*Erratum*.—In Government General Order No. 274 of the 16th March 1865, for Sergeant John "Fitzgerald" read Sergeant John "Fitzpatrick." Order Books to be corrected accordingly.

Lieutenant (Brevet Captain) }
George Vincent Fosbery, of } For 20 months,
the late 4th European Regi- } under the old
ment, Adjutant, Calcutta } Regulations.
Volunteer Rifle Corps }

No. 326 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Lieutenant Colonel Thomas }
Fourness Wilson, c. b., of the } For 20 months.
Bengal Staff Corps, Com-
mandant, 7th Bengal Cavalry }

No. 327 of 1865.—Captain J. Sykes, of the Bengal Staff Corps, Sub-Assistant Commissary General and Officiating Deputy Assistant Commissary General, is allowed leave of absence for one month, from such date as he may avail himself of it, to visit the Presidency, preparatory to applying for leave of absence on medical certificate to Europe.

No. 328 of 1865.—The following promotions are made in the under-mentioned Corps of the Native Army:—

Corps.	Rank and Names.	To what Rank promoted.	From what date.	In whose room.
8th Regiment Bengal Cavalry.	Naib Ressaldar and Woordie Major.	Gyazoo-deen Khan.	Ressaidar	{ 18th February 1865. { Shaick Imtiaz Ally, discharged with gratuity.
Ditto	Naib Ressaldar	{ Ally Mahomed Khan.	{ Ditto	{ Gyazoo-deen Khan, non-effective, as Woordie Major.

No. 329 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointments:—

PUNJAB IRREGULAR FORCE.

Peshawur Mountain Train Battery.

Lieutenant A. Conolly, Doing-duty Officer, No. 2 Light Field Battery, to be Doing-duty Officer, vice Lieutenant Pemberton, appointed Aide-de-Camp on the personal Staff of the Hon'ble the Lieutenant Governor of the Punjab.

No. 2 Light Field Battery.

Lieutenant V. Rivaz, Officiating Doing-duty Officer, No. 1 Light Field Battery, to be Doing-duty Officer, vice Lieutenant Conolly.

The 29th March 1865.

No. 330 of 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India:—

Lieutenant William Saurin }
Brooke, of the late 2nd Re- } 22nd January
giment Native Infantry, } 1863.
Assistant Commissioner, }
Boorhanpore, Central Pro- }
vinces. }
Lieutenant Alfred Frederick }
Pollock Harcourt, of the late } 28th March
30th Regiment Native In- } 1862.
fantry, Assistant Commis- }
sioner, Punjab. }

Lieutenant William George }
Cubitt, v. c., of the late 13th } 16th July 1862.
Regiment Native Infantry, }
Adjutant and Officiating }
Wing Officer, 16th Regi- }
ment Native Infantry. }

Lieutenant Benjamin Jerrard }
Parsons, of the late 23rd } 10th January
Regiment Native Infantry, } 1863.
Assistant Engineer, Meerut }
Division Ganges Canal, De- }
partment of Public Works. }

No. 331 of 1865.—His Excellency the Governor General in Council is pleased to admit the under-mentioned men to the 3rd Class of the Order of Merit, in consideration of their conspicuous gallantry in the field on the occasion of the capture of the Stockades in the Gooroo-gaon Pass on the Bhootan Frontier on the 14th March 1865:—

Havildar Indur, of the 29th (Punjab) Regiment Native Infantry.

Sepoy Mogul Khan, of the 12th (The Kelat-i-Ghilzie) Regiment Native Infantry.

The 30th March 1865.

No. 332 of 1865.—The following alterations in Government General Order No. 773 of the 22nd September 1864, laying down rules under which

Officers are allowed to travel at the public expense, are notified for general information :—

In paragraph 1 the words "*otherwise than by sea*" are to be inserted after the words "proceeding on public duty."

The following will be substituted for the 5th and 6th paragraphs of the General Order above adverted to.

5. When a Commissioned or Warrant Officer is ordered to travel on public duty under any of the above conditions, he must apply to the Divisional Officer of the Quarter Master General's Department, or, if time does not admit of a reference to the Head Quarters of the Division, to the Brigade or Station Staff Officer on the spot, who will furnish him with either a Railway Pass, or Passage Order by any vessel or conveyance by which free or contract passages can be provided, on which pass or order is to be entered a copy of the General, Divisional, or Garrison Order referred to in paragraph 2.

When no Railway Pass or Passage Order can be provided, a certificate to that effect is to be given to the Officer.

6. The charge for conveyance supplied on Government Pass or Passage Order will be adjusted as heretofore; the Officer's certificate that the passage was provided, and, in the case of vessels, that he was messaged on board from, and to such a date, being the only other voucher required. Bills for other passages, vouched by the same certificates and by a certified copy of the order to proceed at the public expense, will be payable on demand to the person supplying the passage by the nearest Pay Master; or, if the Officer has to pay for his passage, he can recover the amount in the usual way.

No. 333 of 1865.—The following temporary promotions are made in the Warrant grades :—

Army Commissariat Department.

		From the 9th
Sub-Conductor Patrick Carr to	act as Conductor -	March 1865, during the absence,
Sergeant Charles Simmons to	act as Sub-Conductor -	on sick leave to Europe, of Conductor A. Simmons, or until further orders.

No. 334 of 1865.—Subadar Major Huskeljee, of the 12th Regiment Bombay Native Infantry, is admitted to the 2nd Class of the Order of British India, with the title of "Bahadoor," with effect from the 16th February 1865, in succession to Pensioned Subadar Major Sumsenjee Israel "Bahadoor," deceased.

No. 335 of 1865.—The services of Honorary Assistant Surgeon F. H. A. Leach are placed temporarily at the disposal of the Government of the North-Western Provinces.

No. 336 of 1865.—The under-mentioned Officer having completed twenty-six years' service, eight

years of which were on permanent staff employ, to be Lieutenant Colonel, from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

Bengal Staff Corps.

Major W. Fullerton ... 26th March 1865.

No. 337 of 1865.—The under-mentioned Officer having completed twelve years' service, four years of which were on permanent staff employ, to be Captain, from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

Bengal Staff Corps.

Lieutenant (Brevet Captain) } 19th February
G. B. C. Simpson. } 1865.

The 31st March 1865.

No. 338 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

Captain Welby Wroughton }
Boddam, of the Bengal Staff } For 20 months.
Corps, District Superintendent }
of Police, Punjab. }

Surgeon-Major Samuel Adam- } For 20 months,
son Homan, of the Medical } under the old
Department. } Regulations.

No. 339 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

Surgeon Charles Thomas } For 3 years,
Paske, of the Medical De- } under the old
partment. } Regulations.

No. 340 of 1865.—The under-mentioned Soldier is admitted to pension as specified opposite to his name :—

Private Mathew Cochrane, of } Rs. 14-14-6 per
the Lahore Light Horse. } mensem, pay-
able in India.

No. 341 of 1865. Major C. H. Byers, of the Bengal Staff Corps, 2nd in Command, and Wing Officer of the 3rd Regiment Native Infantry, is allowed leave of absence from the 11th March 1865 to date of embarkation, to visit Bombay, preparatory to applying for furlough to Europe on medical certificate.

No. 342 of 1865.—The services of Major C. E. Mills, of the late 28th Regiment Native Infantry, are made available for employment under the Military Department.

He will receive his instructions from the Secretary in that Department.

No. 343 of 1865.—His Excellency the Governor General in Council is pleased to notify, with the

sanction of the Right Hon'ble the Secretary of State for India, that the period during which European and East Indian widows of Non-Commissioned Officers and Soldiers are permitted to continue to draw subsistence allowance after their husband's demise, is extended from six to twelve months, unless they re-marry or leave India prior to the expiration of that term, when the allowance will cease from such earlier periods.

Full rations will also be issued to the widows for the periods during which they are entitled to draw subsistence allowance under the above rule, and half rations to their children for the same periods, in addition to the usual subsistence allowance.

No. 344 of 1865.—The undermentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

Major Thomas Hardy Chamberlain, of the Bengal Staff Corps, } For 20 months.
City Magistrate, Lucknow .. }

H. W. NORMAN, Colonel,
Secy. to the Govt. of India.

PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 109.

Fort William, the 25th March 1865.

NOTIFICATIONS.

It is hereby notified that the 3rd Division Great Northern Road, in the Central Provinces, is abolished, and a new Division, to be called the Nerbudda Division, is constituted. The Nerbudda Division will form a portion of the Nagpoor Circle.

Captain A. G. Priestley, s. c., is appointed Executive Engineer of the Nerbudda Division.

No. 110.

The 27th March 1865.

Mr. W. McCracken, Accountant, 4th Grade, Mysore, was granted one month's privilege leave, with effect from the 13th March 1865.

No. 111.

The 28th March 1865.

Major John Chadwick Dickson, of the late 33rd N. I., is re-appointed temporarily to the Public Works Department as an Executive Engineer of the 4th Class, and posted to Bengal.

No. 112.

The arrangement notified in Public Works Department Notification No. 30 of 1865, whereby Captain W. S. Oliphant, R. E., Assistant to Chief Engineer and Assistant Secretary to Chief Commissioner, British Burmah, is officiating temporarily as Chief Engineer, 3rd Class, and Secretary to the Chief Commissioner, is confirmed as permanent during the absence on leave of Captain C. D. Newmarch, R. E., or until further orders.

No. 113.

Captain L. Russell, R. E., Executive Engineer, 1st Class, North-Western Provinces, is appointed to officiate as Superintending Engineer, 2nd Class, and posted to Bengal, vice Colonel Maxwell, appointed Chief Engineer and Secretary to Chief Commissioner, Central Provinces.

No. 114.

Mr. A. C. Cregeen, Assistant Engineer, 1st Grade, Punjab, passed the examination in Hindoostanee on the 26th January 1865.

No. 115.

Major R. H. Sankey, R. E., Executive Engineer, 1st Class, and Assistant to Chief Engineer, Mysore, is allowed three months' privilege leave from the 24th March 1865.

No. 116.

Bepin Beharry Sett, Overseer, 3rd Grade, Oudh, is transferred to the North-Western Provinces.

No. 117.

Captain A. S. Griffiths, Bombay Staff Corps, Probationary Assistant Engineer, Rajpootana Circle, is promoted to Assistant Engineer, 2nd Grade, with effect from the 18th January 1865.

No. 118.

The 29th March 1865.

The under-mentioned Upper Subordinates are transferred from the North-Western Provinces to Mysore:—

Sergeant J. Brown, Supervisor, 2nd Grade.
" W. Lennox, Overseer, 1st "

No. 119.

Sergeant C. Lyons, Overseer, 1st Grade, is transferred from the North-Western Provinces to the Rajpootana Circle.

No. 120.

The under-mentioned 2nd Class Superintending Engineers are appointed to officiate as Superintending Engineers of the 1st Class:—

Major H. W. Gulliver, R. E., Superintending Engineer, Western Circle of Irrigation Works, Punjab.

Major J. G. R. Forlong, M. S. C., Superintending Engineer, 3rd Circle, North-Western Provinces.

Captain F. W. Peile, R. E., Superintending Engineer, 1st Circle, North-Western Provinces.

Captain C. Pollard, R. E., Superintending Engineer, Rajpootana Circle.

Mr. T. W. Armstrong, C. E., Superintending Engineer, Cuttack Circle.

No. 121.

Mr. G. Kilgour, Assistant Engineer, 1st Grade, Punjab, having been permitted by the Secretary of State to resign his appointment in the Public Works Department, is struck off the strength of the Public Works Establishment from the 9th February 1865.

No. 122.

Errata.—In Public Works Notification No. 100 of the 22nd March, for "Punjab" substitute *North-Western Provinces*; and in Notification No. 104 of the 23rd March 1865, expunge the words "on furlough."

No. 123.

The 30th March 1865.

Major H. A. Brownlow, R. E., Executive Engineer, 1st grade, North-Western Provinces (lately rejoined from furlough) is promoted to be Superintending Engineer, 2nd Class, and posted to the North-Western Provinces for employment in the Irrigation Department.

No. 124.

Lieutenant W. Shepherd, R. E., Assistant Engineer, 2nd grade, is transferred from the North-Western Provinces to the Punjab.

No. 125.

Mr. H. Adams, Assistant Engineer, 2nd grade, Oudh, passed the examination in Hindoostani on the 9th January 1865.

C. H. DICKENS, *Lieut. Col., R. A.,*
Secy. to the Govt. of India.

RAILWAY.

No. 1.

The 31st March 1865.

The Governor General in Council is pleased to appoint the Deputy Commissioners of Lucknow and Oonao within their respective jurisdictions, and the Chief Engineer in Oudh, to be Commissioners for the purposes specified in Section 23 of Act XXII of 1863, in regard to the Indian Branch Railway between Lucknow and Cawnpore.

E. C. S. WILLIAMS, *Captain, R. E.*
Under Secy. to the Govt. of India.

ADVERTISEMENTS.

THE BUDGET.

* SIR CHARLES TREVELYAN'S FINANCIAL STATEMENT, to be delivered this morning. Copies will be ready at one o'clock at the Military Orphan Press. Price 8 annas.

NOTICE.

Mr. W. C. Stewart having obtained an order of the Court for the withdrawal of his petition of Insolvency, I have no further claim against his Estate.

JOHN COCHRANE,
Official Assignee.

CALCUTTA,
The 11th March 1865.

NOTICE.

The undersigned having arranged with his creditors, has, with the permission of the Court, withdrawn his petition of Insolvency.

WM. C. STEWART.

CALCUTTA,
14th March 1865.

PRELIMINARY ANNOUNCEMENT.

IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

By order of the Mortgagees,

The well-known Indigo Factories called the Allumehund Concern, at Allahabad, with valuable Talook property attached thereto and Koontee crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontee crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Moran and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

LOST OR STOLEN.

Lost or stolen at Lucknow during the mutiny, A Government Paper No. 164 of the 3½ per cent. loan of 1853-54, for Rupees 600, the property of the undersigned, which has been stopped at the Calcutta Treasury.

Notice is hereby given that the undersigned has not endorsed or transferred it.

LUCKNOW, } SOLEMAN MIRZAH,
1st March 1865. } *alias SAIFOOD DOWLAH.*

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Statement of Government Promissory Notes enforced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 21st March 1865.

	4 per cent. of 1824-25.	4 per cent. of 1828-29.	4 per cent. of 1832-33.	4 per cent. of 1835-36.	4 per cent. of 1842-43.	4 per cent. of 1854-55.	5 per cent. Public Works of 1854-55.	5 per cent. of 1856-57.	5½ per cent. of 1859-60.	3½ per cent. of 1853-54.	4½ per cent. of 1856-57.	Total Rs.
Amount brought forward from Statement dated 9th March 1865	53,000	300	25,59,500	22,99,500	95,85,700	65,89,700	32,51,800	4,80,27,300	2,41,28,500	17,600	16,000	9,65,25,900
ADD—												
Amount enforced at Madras, as per Registers received up to date...	...	...	...	...	21,300	54,400	6,300	...	...	...	...	82,000
Amount enforced at Bombay, as per ditto ditto	...	...	...	7,500	13,000	27,000	51,600	1,81,900	2,20,100	...	...	5,01,100
Amount enforced at Calcutta up to date	...	...	...	5,000	1,500	...	3,500	73,900	35,500	...	...	1,19,400
TOTAL	53,000	300	25,59,500	23,12,000	96,18,500	66,71,100	33,13,200	4,82,83,100	2,43,84,100	17,600	16,000	9,72,28,400
DEDUCT—												
Amount removed from the London Books, as per Registers received up to date	...	...	4,500	...	...	4,500	...	16,000	5,500	...	...	30,500
TOTAL	53,000	300	25,55,000	23,12,000	96,18,500	66,66,600	33,13,200	4,82,67,100	2,43,78,600	17,600	16,000	9,71,97,900

FORT WILLIAM;
LOAN OFFICE,
The 27th March 1865.

R. P. HARRISON,
Acctt. Genl. to the Govt. of India.

Printed and Published for the Government of India, by O. T. CUTTER, at the Military Orphan Press.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, APRIL 8, 1865.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th March 1865, and is hereby promulgated for general information:—

Act No. XII of 1865.

An Act to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of an Officer appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta; It is enacted as follows:—

1. In this Act:—

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Magistrate" includes a Magistrate of Police appointed under Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras

and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca).

2. The forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second Sections of Act XVIII of 1862 (to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature),

and Act XXV of 1863 (to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction) are hereby repealed.

3. After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison; and no writ shall be awarded to the said Sheriff commanding him to arrest and seize the body of any offender.

4. It shall be lawful for the Government of Bengal to appoint an Officer who shall be called the Superintendent of the Presidency Jail, and who shall have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

5. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the Superintendent of the Presidency Jail, together with the warrant of the said Court, and such warrant shall be executed by the said Superintendent and returned by him to the High Court when executed.

6. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

7. Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, the Magistrate shall cause such person to be delivered to the said Superintendent together with a warrant of the Court.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

8. The said Superintendent shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

9. Persons committed by a Justice of the Peace or Magistrate for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

10. Every person arrested in pursuance of a warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*), shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the said Superintendent; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

11. The said Superintendent shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Superintendent to detain such persons according to exigency of warrant.

12. From and after the commencement of this Act, all persons confined in the Great Jail of Calcutta, under process or sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

13. Any warrant of commitment under Regulation III, 1818, of the Bengal Code (*for the confinement of State Prisoners*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff, under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

14. The provisions contained in the Statute 11 Vict., cap. 21 (*to consolidate and amend the laws relating to Insolvent Debtors in India*), relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the said Superintendent or liable to be delivered to or entitled to be discharged from his custody.

Provisions of Statute 11 Vict., cap. 21 as to prisoners, to extend to persons in custody of Superintendent.

15. This Act shall come into operation on the first day of April 1865.

Commencement of Act.

16. The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the *Gazette of India*: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and Regulation II of 1819 of the Madras Code (*for the confinement of State Prisoners*) and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State*), shall respectively be read for the said Regulation III of 1818 of the Bengal Code, and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st March 1865, and is hereby promulgated for general information :—

ACT No. XIII OF 1865.

An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows :—

Preliminary.

1. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

2. In this Act, unless there be something repugnant in the subject or context—

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, respectively.

"Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India" denotes the territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

Of Charges where the accused is committed in a Presidency Town.

3. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed, within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

4. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

5. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

6. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

7. In Act XVIII of 1862 (to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Su-

preme Courts of Judicature), the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

8. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Of Grand Juries.

9. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries, shall be liable, except as hereinafter provided, to serve on such Juries.

10. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

Of Juries in Presidency Towns.

11. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

12. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons

privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

13. The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

14. All persons whose names are entered in the "Special Jurors' List," shall be exempted from serving on any other than Special Juries.

15. The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

16. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

17. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and

copies of the said lists shall be affixed to some conspicuous part of the Court House.

18. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Of Challenges of Jurors in the Presidency Towns.

19. A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

20. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

21. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empanelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

Of Sitzings under a Commission.

22. From and after the commencement of this Act, whenever it shall appear to the Governor General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor General of India in Council shall, by his Commission for that purpose,

authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

23. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

24. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

25. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

26. Every Commission issued as aforesaid Commission to specify time and place during and in which it shall travel. under any of the preceding Sections shall specify the time during which and the districts or places within which such Commission shall remain in force; and such time and the limits of such districts or places shall be notified in the Official Gazette.

27. The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

28. Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given,

and the documents directed to be sent to the Clerk of the Crown shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

29. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried

at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to as last aforesaid or not shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

30. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

31. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British sub-

shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section of this Act to be given and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

32. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

33. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

34. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

35. Whenever the Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall

think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

36. If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

37. On every trial mentioned in the thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

38. During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial

nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

39. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

40. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

41. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed

by the Sudder Court under the Code of Criminal Procedure.

42. Save as is hereinbefore otherwise providing the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge, an Associate Judge, and to trials before such Judge or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

43. If the Judge of the High Court then fit, he may direct the Associate Judge to try any one triable under Commission not an European British subject.

44. From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, at other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Section of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

45. This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

46. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

following Act of the Governor General of Council received the assent of His Excellency the Governor General on the 7th April 1865, hereby promulgated for general information.

ACT No. XIV OF 1865.

to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

areas it is expedient to define the jurisdiction of Courts of Civil Judicature in the Central Provinces: It is enacted as follows:—

1. This Act shall be called "The Central Provinces Courts' Act, 1865."

In this Act—

"Assistant Commissioner" includes Extra Assistant Commissioner.

For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court shall be deemed the Divisional Court.

There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

- (1). The Court of the Tahsildar of the second class.
- (2). The Court of the Tahsildar of the first class.
- (3). The Court of the Assistant Commissioner of the third class.
- (4). The Court of the Assistant Commissioner of the second class.
- (5). The Court of the Assistant Commissioner of the first class.
- (6). The Court of the Deputy Commissioner.
- (7). The Court of the Commissioner.
- (8). The Court of the Judicial Commissioner.

5. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

6. The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits for money due, whether on bond or other con-

tract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of fifty Rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

7. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

8. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

9. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

10. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand Rupees in value or amount.

11. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand Rupees in value or amount.

12. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades respectively and of Naib Tahsildars invested as aforesaid.

13. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

14. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

15. The memorandum of regular appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division, and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for regular appeals.

16. Whenever the state of the public business requires it, the Local Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

17. Every suit shall be instituted in the Court in which the suit shall be instituted. Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

18. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

19. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

20. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

21. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him not being a Court of Small Causes shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

22. If the suit be for any immovable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and such Commissioner after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

23. If the District Courts within the limits of whose jurisdiction the immovable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

24. This Act shall commence and come into operation on the first day of May 1865.

25. The Governor General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI of 1865, (to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th April 1865, and is hereby promulgated for general information :—

Act No. XV of 1865.

An Act to define and amend the law relating to Marriage and Divorce among the Parsees.

Whereas the Parsee Community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows :—

I.—*Preliminary.*

Short title.	1. This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."
Interpretation clause.	2. In this Act, unless there be something repugnant in the subject or context—
Words in the Number.	singular number include the plural, and words in the plural number include the singular.
"Priest."	"Priest" means a Parsee Priest and includes Dastúr and Mobed.
"Marriage."	"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.
"Section."	"Section" means a Section of this Act.
"Chief Justice."	"Chief Justice" includes Senior Judge.
"Court."	"Court" means a Court constituted under this Act.
"British India."	"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India."
"Local Government."	And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and "High Court" means the highest Civil Court of appeal in such part.

II.—*Of Marriages between Parsees.*

3. No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor-General of India in Council shall, after due enquiry, publish in the *Gazette of India*, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Asírvád" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

4. No Parsee shall, after the commencement of this Act, contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

5. Every Parsee who shall, after the commencement of this Act and during the life-time of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in Sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

6. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate together with a fee of two Rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

7. For the purposes of this Act a Registrar shall be appointed, who may be the Registrar appointed under Act XVI of 1864 (*to provide for the Registration of Assurances*). Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

8. The Register of Marriages mentioned in the sixth Section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two Rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

9. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth Section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred Rupees, or with both.

10. Any Priest neglecting to comply with any of the requisitions affecting him contained in the sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Rupees, or with both.

11. Every other person required by the sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred Rupees.

12. Every person making, or signing, or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section four hundred and sixty-six of the said Code.

13. Any Registrar failing to enter the said certificate pursuant to the sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

14. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred Rupees.

III.—Of Parsee Matrimonial Courts.

15. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras and Bombay, and in such other places in the Territories of the several

local Governments as such Governments respectively shall think fit.

16. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be coextensive with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

17. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be coextensive with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

18. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

19. Any District which the Local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

20. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal which shall be kept in the custody of the presiding Judge.

21. The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

22. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

23. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

24. The Delegates selected under the sixteenth and seventeenth Sections to aid in the adjudication of suits under this Act shall be taken under the orders of the presiding Judge of the Court in due rotation from the Delegates appointed by the Local Government under the twenty-first Section.

25. All Advocates, Vakeels, and Attornies-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

26. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant has left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

IV.—Of Matrimonial Suits.

(a). For a Decree of Nullity.

27. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

28. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

(b). For a Decree of Dissolution in case of Absence.

29. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

(c). For Divorce or Judicial Separation.

30. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

31. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

32. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at, or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

33. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of the husband's net income, as the Court, considering

the circumstances of the parties, shall think reasonable.

34. The Court may, if it shall think fit on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

35. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(d). For Restitution of Conjugal Rights.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

37. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

38. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

39. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

40. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

41. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

42. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

43. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—Of the Children of the Parties.

44. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

45. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

Settlement of wife's property for benefit of children.

VI.—Of the Mode of enforcing Penalties under this Act.

46. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

47. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Punishment of offences under this Act committed within local limits of High Court.

48. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's movable property by warrant under the hand of the Officer imposing the fine.

Levy of fines by distress.

49. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of

Procedure until return is made to distress warrant.

such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

50. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient movable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

Imprisonment if no sufficient distress.

VII.—Miscellaneous.

51. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

52. The Governor General of India in Council may invest the Chief Executive Officer of any part of British India, under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

53. This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

Commencement and extent of Act.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

2. In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decision of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

3. The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under the second Section of this Act, be deemed the highest Court of appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations and provisos, with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August 1861. Subject to the same restrictions, limitations and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

4. Subject to the proviso in the second Section of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in the said Section, be instituted or tried in any Court or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

5. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844. Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favourable rates.

6. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section) cognizable under this Act by any Revenue Court, which may have been rejected or dismissed

on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

7. All suits relating to the proprietary right in, succession to or possession of, any land, or to any right in respect of any land, which shall be instituted after the expiration of the period appointed in the second Section of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

8. No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to, or possession of, any land, or to any right in respect of any land in the said Province, shall be invalid by reason of anything contained in the said Code.

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

HOME DEPARTMENT.

No. 3204.

Fort William, the 1st April 1865.

NOTIFICATIONS.

The following promotion is sanctioned in the Telegraph Department from the date of Lieutenant Colonel P. Stewart's death :—

Mr. C. Galbraith, Superintendent, at present officiating as Director of the Western Division, to be Director.

No. 3205.

The 5th April 1865.

The Governor General in Council directs the publication of the following Despatch from the Right Hon'ble the Secretary of State for India, No. 32, dated the 17th February 1865.

The Rules contained in this Despatch supersede those published in the *Gazette of India* of the 15th October 1864 :—

FINANCIAL.

INDIA OFFICE,

No. 32.

London, 17th February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR,—I have considered in Council your Ecclesiastical letter dated the 8th December last, No. 13, in which you recommend for favourable consideration the proposition of the Bishop of Calcutta that Chaplains who may retire prior to the occurrence of a vacancy in the Senior Chaplaincies, and who would consequently only receive a pension of £292 per annum, may be admitted to the increased pension of £365 as soon as a vacancy occurs which would render pensions of that amount available.

2. On a reconsideration of the whole question, and the inconvenience shown to be likely to arise from not limiting the period of Chaplains' service, Her Majesty's Government are of opinion that, instead of acceding to the proposition now submitted, it would be better, for the interests of the service, that the following Rules should be published in substitution of those sanctioned in my Financial Despatch of the 30th July last, No. 186, to take effect from the 15th October last, the date of the publication of that Despatch in India :—

I.—A Chaplain retiring after completing the full period of service, as prescribed by Government Regulations, shall receive a pension of £365 per annum. This rule to come into operation in each Presidency as soon as either of the two Senior Chaplaincies in that Presidency is vacant.

II.—Every Chaplain shall be compelled to retire after 25 years from the date of the commencement of his service in India, unless specially retained in the service by the Secretary of State for India in Council, on the recommendation of the Governor General in Council or Governor in Council of his Presidency. This rule to come into operation in three years.

III.—During the next three years, the second Chaplain may succeed to the Senior Chaplaincy, and the third to the second Chaplaincy; but if either of them accepts that advantage, he thereby forfeits his claim to the increased pension. After

three years there shall be no more appointments to the two Senior Chaplaincies, but the incumbents then existing, if any, may retain them, unless they fall under the operation of Rule II. The incumbents now existing, in order to entitle themselves to the increased pension, must resign before the end of three years.

IV.—The lower rates of pension payable to Chaplains compelled by ill health to retire after a shorter period of service, shall remain as at present.

I have, &c.,

(Sd.) C. Wood.

No. 3206.

Mr. F. M. Lind, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years from the date of embarkation.

No. 3207.

The Governor General in Council has been pleased to grant to Mr. H. B. Medlicott, Deputy Superintendent of the Geological Survey of India, leave of absence for 6 months, under para. 12, Clause 1 of the Uncovenanted Absentee Rules, with effect from the date on which he may avail himself of the same.

No. 3208.

The 6th April 1865.

Mr. H. D. Willock, of the Civil Service, has reported his departure from India per "Mooltan," which vessel was left by the Pilot at Sea on the 24th of March.

No. 3209.

The Right Reverend the Lord Bishop of Calcutta has granted ten days' privilege leave to the Revd. C. S. P. Parish, Chaplain of Moulmein, in extension of the leave granted to him on the 13th of January.

No. 3210.

The Governor General in Council is pleased to invest the under-mentioned Tehsildar in the Central Provinces with the powers of a Subordinate Magistrate of the 2nd Class described in Chapter II, Section 22 of Act XXV of 1861 :—

Tukhut Sing, Tehseeldar of Hutta, in the Dumoh District.

No. 3212.

Lieutenant M. M. Bowie, Assistant Commissioner, Sumbulpore, in the Central Provinces, officiated as District Superintendent of Police of that District from the 24th October 1864 to the 15th February 1865. This cancels Notification No. 1766, dated 23rd February 1865.

No. 3214.

The Governor General in Council is pleased to appoint Mr. J. Hornby, Inspector of Police, to officiate temporarily as District Superintendent of Police, Chindwarra, vice Captain E. B. Clay, resigned.

No. 3216.

The 7th April 1865.

Mr. Frank Wyllie, Assistant Secretary to the Chief Commissioner of the Central Provinces, to officiate as Director of Public Instruction in those Provinces, in addition to his own duties, as a temporary arrangement.

No. 3218.

The Governor General in Council is pleased to attach Messrs. F. W. R. Fryer, S. S. Thorburn, and J. W. Gardiner, of the Civil Service, reported qualified for the Public Service, to the North Western Provinces, the Punjab, and Oude, and to place their services at the disposal of the Foreign Department for employment in the Punjab.

No. 3219.

The Governor General in Council is pleased to appoint Major A. E. Wilkinson, Assistant Commissioner, 3rd Grade, in Oude, to officiate as City Magistrate of Lucknow during the absence on leave of Major Chamberlain, or until further orders.

No. 3221.

Major T. H. Chamberlain, City Magistrate, Lucknow, availed himself on the afternoon of the 10th ultimo of the twenty-four days' preparatory leave granted him in G. O. No. 2220, dated 10th idem.

No. 3223.

With reference to Section 3 of Act XXII of 1864, the Governor General in Council is pleased, under Section 23 of the Code of Criminal Procedure, to invest the following Officers with the powers of a Magistrate:—

Captain R. A. Cole, within the limits of the Cantonment of Bangalore.

Major R. Renton, within the limits of the Cantonment of Mysore.

E. C. BAYLEY,

Secy. to the Govt. of India.

No. 3229.

The 7th April 1865.

The under-mentioned specification of an invention has been filed under the provisions of Act XV of 1859, in the Office of the Secretary to the Government of India in the Home Department. A copy has been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of the specification is open at all reasonable hours at the Office of the Secretary to the Government of India in the Home Department, to public inspection, upon payment of a fee of one Rupee. A certified copy of the specification will be given to any person requiring the same on payment of copying:—

No. 225.—John Dodd, of Oldham, in the county of Lancaster in England, Mechanical Engineer, for "improvements in mules for spinning and doubling."

Lieutenant G. A. McG. Skinner, R. E., 2nd Assistant, Great Trigonometrical Survey, to officiate for Captain C. T. Haig, R. E., 1st Assistant, Great Trigonometrical Survey, during that Officer's absence in Europe in furlough, or until further orders.

No. 3235.

Under the provisions of Section 12 of Act XXII of 1864, the Governor General in Council is pleased to extend Section 34 of Act V of 1861 to the Cantonments of Lucknow and Fyzabad.

A. M. MONTEATH,

Under Secy. to the Govt. of India.

FOREIGN DEPARTMENT.

JUDICIAL.

No. 123.

Fort William, the 5th April 1865.

The Governor General in Council is pleased, with reference to Section 11, Act VIII of 1855, to declare the Province of Coorg subject to the Presidency of Madras for the purposes of the said Section.

No. 795.

The 6th April 1865.

A Commission of the Peace was issued from the High Court of Judicature in Bengal on the 24th ultimo, directed to the under-mentioned Officers serving in the Central Provinces and in Rajpootana:—

Central Provinces.

Captain Elliot Minto Playfair, Cantonment Joint Magistrate of Kamptee.

Rajpootana.

Lieutenant Arthur Neil Bruce, Assistant to the Agent, Governor General.

Lieutenant William James Wemyss Muir, Assistant to the Agent, Governor General.

Lieutenant James Jenkins Blair, Assistant to the Agent, Governor General.

Lieutenant Arthur William Roberts, Officiating Assistant to the Agent, Governor General.

Lieutenant Colonel William Frederick Eden, Political Agent, Meywar.

Lieutenant Colonel John Cheap Brook, Political Agent, Jeypore.

Captain William Howell, Beynon, Officiating Political Agent, Jeypore.

Major John Piggott Nixon, Political Agent, Marwar.

Captain Charles Kenneth Mackenzie Walter, Political Agent, Bhurtpore.

Captain Henry Phillpotts, Officiating Political Agent, Harrowtee.

Lieutenant Colonel John Francis William Devereux Hall, Political Superintendent, Serohie.

REVENUE.

No. 154.

The 30th March 1865.

NOTIFICATIONS.

The following Rules for the grant of waste lands in British Burmah, alternative to the Rules

published in Notification No. 150 A, dated 30th June 1863, are published for general information :—

A. COLVIN,

Offg. Under Secy. to Govt. of India.

REVISED RULES.

I.—The waste lands in the Province of British Burmah shall be classed as follows, and being the property of the State, the local Revenue Officers are, subject to the confirmation and orders of the Governor General in Council, hereby authorized to give grants of the same to all persons rent-free, and liable to future assessment for the periods, and at the rates specified underneath. No deduction will be made on account of sites of houses, water courses, roads, and so forth.

Class.	Description of Jungle land.	Duration of tenure		Rates of future assessment and duration thereof.		Total	
		Free.	Years.	4 annas per acre.	Years.	8 annas per acre.	Years.
1	Forest jungle on hills		32		Years.	12 annas per acre.	Years.
2	Forest on plains, including Mangrove and other trees, jungle in swamp		24		Years.	8 annas per acre.	Years.
3	Bush jungle, all kinds every where		16		Years.	4 annas per acre.	Years.
4	Reed and long grass jungle		8		Years.		
5	Short grass jungle and fallow land		4		Years.		

On the expiration of the complete term of years of each grant, as above set forth, it shall be at the option of the grantee to demand a settlement of the land revenue of his grant in perpetuity at the rate of one rupee and a half for each acre, per annum, payable to Government, and such payment shall be the maximum rate payable for ever, as land revenue for such grant.

II.—In determining the class to which each grant may belong, and to avoid vexatious investigations, the character of three-fourths of the area, or as near that proportion as is possible, is to be considered as that of the whole.

The revised rates per acre payable under Rule I, will be declared applicable to all grants made under the Rules for Pegu, passed by the Governor General in Council on the 6th March 1861, and under the Rules for Arracan, passed on 5th September 1839, and amended on the 5th October 1841, on the grantees agreeing to pay the following cesses to form local funds, viz. :—

For Roads	1 per cent.
„ Education	1 „
„ District Dāk	$\frac{1}{4}$ „
„ Village Chowkeedarree	$2\frac{3}{4}$ „

Total 5 per cent.

On the annual amount of assesment for the land revenue, and in addition to such land revenue.

All grants made under these present rules will also be liable to cesses of the same amount for the same objects, and these cesses shall be payable at the same time that revenue is payable by the owner of the grant, and default will be treated in like manner as default in payment of land revenue.

III. No grant for agricultural purposes is to be made under these rule of a greater extent than ten thousand (10,000) acres, or within a distance of four miles from the nearest part of the boundary of the jurisdiction of the town Magistrates of Rangoon, Moulmein, and Akyab, and from the Court Houses of the Deputy Commissioners of all other districts. Within the above limits it shall be competent for the Deputy Commissioner, with the sanction of the Commissioner, to make grants under these rules, not exceeding (100) one hundred acres, and upon such conditions as, with reference to the nature and situation of the land applied for, may be specially fixed and determined, these rules being taken as a general guide for the terms.

IV. Provided that no grant of land shall, unless under special sanction of the Commissioner, be made to include any portion of a fishery leased out by Government, or any right of way thereto, nor any teak forests, nor any land used for the manufacture of Salt, nor any navigable streams, nor land below high water mark on the sea shore, or on *tidal streams*; and provided also that the right of Government to resume portions of any grant required for public roads or other works, shall in in all cases be, and is hereby reserved, and such resumption shall be made under Act VI of 1857, or other similar Act in force at the time such grant shall be made.

V. All lands assigned under these rules shall be the hereditary property of the grantees on the fulfilment of the prescribed conditions, and on the execution of a bond binding themselves to abide by the prescribed conditions, they shall be entitled to a grant to the above effect.

VI. Should any grantee neglect to fulfil the Resumption of terms specified in these rules, or any portion of them, the grant is to be resumed, but no resumption is to be made without due notice having been served on the grantee, requiring him to show cause why his Estate should not be resumed; after which proceedings are to be held, and the decision to be formally recorded in each case, the same being open to appeal in the usual manner.

VII. Grantees who have not purchased exemption from payment of land revenue, or who have not made engagements for a maximum assessment under Rule I, shall, on the expiration of the periods stated in the last column of the table annexed to Rule I, viz:—

1st Class	64 years.
2nd „	48 „
3rd „	32 „
4th „	16 „
5th „	8 „

be entitled to a new lease of *not less* than 20 years' duration, and on the expiration thereof to further renewal for a similar period, and the same on the lapse of each successive lease, provided that they agree to fair terms of assessment.

VIII. On the renewal of each lease, granted after the expiration of the period noted in the last column of the table of Rule I, the local Revenue Officers may, with the sanction of the Governor General in Council, revise the settlement, and if the grantee has not accepted the maximum rate in perpetuity provided for in Rule I, may impose upon the area of each grant an assessment not exceeding the average rates of assessment per acre of lands of similar quality in the circles immediately adjoining the grant; and in like manner should a grantee be able to satisfy the local Revenue Authorities that his assessment is higher than the average tax of similar lands, in the adjoining circles, assessed on account of Government, he will be entitled, at the renewal of his lease, to an abatement of his assessment for the term of the said lease, so that he shall not be required to pay more than the fair average assessment of the lands in his vicinity.

IX. A lease or grant having once been confirmed by competent authority, no alteration of rate of assessment is to be allowed until its expiration.

X. On the revision of any settlement consequent on the renewal of a lease, the rate of assessment is, in the case of a difference arising between the grantee and the Assessing Officer, to be fixed by three Arbitrators, one of whom is to be nominated by the grantee, one by the Assessing Officer, and the third by the two individuals appointed above, and their decision is not to be reversed, except by the order of the Governor General in Council.

XI. Grants of 200 acres and upwards shall not be placed under the authority of the Thoogyee or other manager of the circle in which they may be situated. When grants of the above extent become liable to assessment, each grantee shall be entitled to a separate

settlement direct with the local Revenue Officer whatever may be the amount of assessment.

XII. Grantees are hereby required to furnish each cultivator annually with a Bill of demand, written in the Burmese language, specifying every thing he is to pay, and he is entitled to receive a Bond from the cultivator, promising to pay the amount. No suit regarding rent is to be entertained in Court except upon written agreement.

XIII. All applicants for grants must satisfy the local Revenue Officers that they possess the means of redeeming the lands required by them, or Capital as per annexed scale—

1st class jungle,	Rs. 15 per Acre.
2nd „	12 „
3rd „	9 „
4th „	6 „
5th „	3 „

and if dissatisfied with that Officer's estimate of their resources, they may, within three months, appeal to the Commissioner whose decision is to be final.

XIV. Every grant shall be registered in such manner as the Governor General in Council may direct, its situation, extent, and boundaries being duly recorded, and on every occasion of transfer of the proprietary right, subsequent to the expiration of the first lease, whether from the death of the former owner, from sale, or any other cause, the same is to be notified to the proper Officer, and the cause of transfer and the name of the new proprietor, registered. No proprietary right to the land or its rent shall be recognized by any Court in British Burmah, unless the proprietor's name has been registered. When there are several shareholders in a grant, the names of all must be registered as the legal and responsible grantees thereof. They are jointly and severally responsible for the payment of revenue and for all duties required from a grantee. The Deputy Commissioner in each district is *ex-officio* Registrar of Grants made under these rules.

XV. In cases of transfer by sale or assignment of a grant, the same is to be acknowledged by both parties in person, or by accredited Agents, before the Registering Officer at the time of registry, and the registry is to be attested by the principals or their Agents, and also by at least two competent witnesses whose names and places of abode are to be inserted.

XVI. A survey is to be made of each grant as soon as possible, and any person convicted of having fraudulently extended his boundaries, shall be liable to be deprived of the land he has fraudulently appropriated, and to a fine not exceeding one hundred (100) Rupees for every acre so appropriated. If the said fine be not paid, the amount will be leviable by distress, and the sale of his property, real and personal. Should the proprietor be dissatisfied with the first survey, he may have the land re-surveyed; on depositing the probable expense.

published in Notification No. 150 A, dated 30th June 1863, are published for general information:—

A. COLVIN,

Offg. Under Secy. to Govt. of India.

REVISED RULES.

I.—The waste lands in the Province of British Burmah shall be classed as follows, and being the property of the State, the local Revenue Officers are, subject to the confirmation and orders of the Governor General in Council, hereby authorized to give grants of the same to all persons rent-free, and liable to future assessment for the periods, and at the rates specified underneath. No deduction will be made on account of sites of houses, water courses, roads, and so forth.

Class.	Description of Jungle land.	Duration of tenure free.				Rates of future assessment and duration thereof.				Total.			
		Years.				Years.				Years.			
						4 annas per acre.				8 annas per acre.			
						12 annas per acre.							
1	Forest jungle on hills	32				8				16			64
2	Forest on plains, including Mangrove and other trees, jungle in swamp	24				6				12			48
3	Bush jungle, all kinds every where	16				4				8			32
4	Reed and long grass jungle	8				2				4			16
5	Short grass jungle and fallow land	4				1				2			8

On the expiration of the complete term of years of each grant, as above set forth, it shall be at the option of the grantee to demand a settlement of the land revenue of his grant in perpetuity at the rate of one rupee and a half for each acre, per annum, payable to Government, and such payment shall be the maximum rate payable for ever, as land revenue for such grant.

II.—In determining the class to which each grant may belong, and to avoid vexatious investigations, the character of three-fourths of the area, or as near that proportion as is possible, is to be considered as that of the whole.

The revised rates per acre payable under Rule I, will be declared applicable to all grants made under the Rules for Pegu, passed by the Governor General in Council on the 6th March 1861, and under the Rules for Arracan, passed on 5th September 1839, and amended on the 5th October 1841, on the grantees agreeing to pay the following cesses to form local funds, viz.:—

For Roads	1 per cent.
„ Education	1 „
„ District Dāk	$\frac{1}{4}$ „
„ Village Chowkeedarree	$2\frac{3}{4}$ „

Total 5 per cent.

On the annual amount of assesment for the land revenue, and in addition to such land revenue.

All grants made under these present rules will also be liable to cesses of the same amount for the same objects, and these cesses shall be payable at the same time that revenue is payable by the owner of the grant, and default will be treated in like manner as default in payment of land revenue.

III. No grant for agricultural purposes is to be made under these rule of a greater extent than ten thousand (10,000) acres, or within a distance of four miles from the nearest part of the boundary of the jurisdiction of the town Magistrates of Rangoon, Moulmein, and Akyab, and from the Court Houses of the Deputy Commissioners of all other districts. Within the above limits it shall be competent for the Deputy Commissioner, with the sanction of the Commissioner, to make grants under these rules, not exceeding (100) one hundred acres, and upon such conditions as, with reference to the nature and situation of the land applied for, may be specially fixed and determined, these rules being taken as a general guide for the terms.

IV. Provided that no grant of land shall, unless under special sanction of the Commissioner, be made to include any portion of a fishery leased out by Government, or any right of way thereto, nor any teak forests, nor any land used for the manufacture of Salt, nor any navigable streams, nor land below high water mark on the sea shore, or on *tidal streams*; and provided also that the right of Government to resume portions of any grant required for public roads or other works, shall in in all cases be, and is hereby reserved, and such resumption shall be made under Act VI of 1857, or other similar Act in force at the time such grant shall be made.

V. All lands assigned under these rules shall be the hereditary property of the grantees on the fulfilment of the prescribed conditions, and on the execution of a bond binding themselves to abide by the prescribed conditions, they shall be entitled to a grant to the above effect.

VI. Should any grantee neglect to fulfil the Resumption of terms specified in these rules, or any portion of them, the grant is to be resumed, but no resumption is to be made without due notice having been served on the grantee, requiring him to show cause why his Estate should not be resumed; after which proceedings are to be held, and the decision to be formally recorded in each case, the same being open to appeal in the usual manner.

VII. Grantees who have not purchased exemption from payment of land revenue, or who have not made engagements for a maximum assessment under Rule I, shall, on the expiration of the periods stated in the last column of the table annexed to Rule I, viz:—

1st Class	64 years.
2nd „	48 „
3rd „	32 „
4th „	16 „
5th „	8 „

be entitled to a new lease of *not less* than 20 years' duration, and on the expiration thereof to further renewal for a similar period, and the same on the lapse of each successive lease, provided that they agree to fair terms of assessment.

VIII. On the renewal of each lease, granted after the expiration of the period noted in the last column of the table of Rule I, the local Revenue Officers may, with the sanction of the Governor General in Council, revise the settlement, and if the grantee has not accepted the maximum rate in perpetuity provided for in Rule I, may impose upon the area of each grant an assessment not exceeding the average rates of assessment per acre of lands of similar quality in the circles immediately adjoining the grant; and in like manner should a grantee be able to satisfy the local Revenue Authorities that his assessment is higher than the average tax of similar lands, in the adjoining circles, assessed on account of Government, he will be entitled, at the renewal of his lease, to an abatement of his assessment for the term of the said lease, so that he shall not be required to pay more than the fair average assessment of the lands in his vicinity.

IX. A lease or grant having once been confirmed by competent authority, no alteration of rate of assessment is to be allowed until its expiration.

X. On the revision of any settlement consequent on the renewal of a lease, the rate of assessment is, in the case of a difference arising between the grantee and the Assessing Officer, to be fixed by three Arbitrators, one of whom is to be nominated by the grantee, one by the Assessing Officer, and the third by the two individuals appointed above, and their decision is not to be reversed, except by the order of the Governor General in Council.

XI. Grants of 200 acres and upwards shall not be placed under the authority of the Thoogyee or other manager of the circle in which they may be situated. When grants of the above extent become liable to assessment, each grantee shall be entitled to a separate

settlement direct with the local Revenue Officer whatever may be the amount of assessment.

XII. Grantees are hereby required to furnish each cultivator annually with a Bill of demand, written in the Burmese language, specifying every thing he is to pay, and he is entitled to receive a Bond from the cultivator, promising to pay the amount. No suit regarding rent is to be entertained in Court except upon written agreement.

XIII. All applicants for grants must satisfy the local Revenue Officers that they possess the means of redeeming the lands required by them, or Capital as per annexed scale—

1st class jungle,	Rs. 15 per Acre.
2nd „	12 „
3rd „	9 „
4th „	6 „
5th „	3 „

and if dissatisfied with that Officer's estimate of their resources, they may, within three months, appeal to the Commissioner whose decision is to be final.

XIV. Every grant shall be registered in such manner as the Governor General in Council may direct, its situation, extent, and boundaries being duly recorded, and on every occasion of transfer of the proprietary right, subsequent to the expiration of the first lease, whether from the death of the former owner, from sale, or any other cause, the same is to be notified to the proper Officer, and the cause of transfer and the name of the new proprietor, registered. No proprietary right to the land or its rent shall be recognized by any Court in British Burmah, unless the proprietor's name has been registered. When there are several shareholders in a grant, the names of all must be registered as the legal and responsible grantees thereof. They are jointly and severally responsible for the payment of revenue and for all duties required from a grantee. The Deputy Commissioner in each district is *ex-officio* Registrar of Grants made under these rules.

XV. In cases of transfer by sale or assignment of a grant, the same is to be acknowledged by both parties in person, or by accredited Agents, before the Registering Officer at the time of registry, and the registry is to be attested by the principals or their Agents, and also by at least two competent witnesses whose names and places of abode are to be inserted.

XVI. A survey is to be made of each grant as soon as possible, and any person convicted of having fraudulently extended his boundaries, shall be liable to be deprived of the land he has fraudulently appropriated, and to a fine not exceeding one hundred (100) Rupees for every acre so appropriated. If the said fine be not paid, the amount will be leviable by distress, and the sale of his property, real and personal. Should the proprietor be dissatisfied with the first survey, he may have the land re-surveyed, on depositing the probable expense.

XVII. The grantee is responsible for the collection of capitation tax, from all persons liable thereto, under the Revenue Rules of British Burmah. He also in his bond, taken under Rule VI., will bind himself to observe the said Rules. A grant under these Rules will entitle the grantee to all mineral products found therein, but the said minerals will, except coal, which will be free, be subject to a royalty not exceeding five per cent. on the value thereof, whether manufactured or otherwise, within the grant where they have been found. The value of such mineral products shall be fixed from time to time, in each case, by the Deputy Commissioner, the order for the said value being open to appeal and revision in the usual manner.

XVIII. Any person who having obtained a grant of waste land in British Burmah, shall fail in the prescribed conditions, shall not be deemed eligible to receive another grant, unless he can satisfy the Local Authorities that the causes of his failure were entirely beyond his control.

XIX. The land measure to be used for grants throughout the province of British Burmah, is as follows:—

Square feet.
 226·875 = 1 pie.
 2,722·5 = 1 anna.
 43,560 = 1 acre.

FORM No. 1.

Form of Application for the grant of Waste Lands.

To

THE DEPUTY COMMISSIONER OF

The Petition of _____

Name, occupation, and residence in full.

RESPECTFULLY SHOWETH—

That your Petitioner is desirous of obtaining, under the Rules sanctioned by the Government of India, dated _____ a grant of waste land situated in the village of _____ circle of _____ Township of _____ bounded on the North by _____ on the East by _____ on the South by _____ on the West by _____ and roughly estimated to contain about _____ acres.

That your Petitioner is prepared to satisfy you that he is possessed of sufficient means to redeem the said land, agreeably to para. 15 of the said Rules.

That your Petitioner therefore prays that you will be pleased to appoint a Surveyor to make a plan of the said land, and on the said plan being delivered to you, that you will be pleased to declare to what class the said land belongs, under Section 1 of the Rules aforesaid. Whereupon

your Petitioner undertakes to execute the bond required by Section 7 of the Rules aforesaid.

Dated _____

And your Petitioner as in duty bound will ever pray.

FORM No. 2.

Form of order by the Deputy Commissioner on a petition for the grant of Waste Land.

Revenue side. In the Court of the Deputy Commissioner of _____

The _____

No. _____ of 186 -6.

Petitioner.

For a grant of waste land in _____
 Read the petition of _____
 praying for a grant of waste land in village _____
 Circle _____
 Township.

Ordered

That Surveyor _____ proceed with the Petitioner, and in presence of the Thogyee of the Circle make a plan of the land which may be pointed out to him by the said _____ particularly noting the description of the land, or of each several portion of the land, if composed of different descriptions, and whether there are any occupants or any claimants to any portion of the land.

The plan to be filed in Court on or before the _____

Deputy Commissioner.

FORM No. 3.

Form of order of the Deputy Commissioner on the plan being filed.

Revenue side. In the Court of the Deputy Commissioner of _____

The _____

No. _____ of 186 -6

Petitioner.

Whereas _____ has filed the plan agreeably to the order of the Court in this case, dated _____ and it appearing from the said plan that the land for which the Petitioner _____ has made an application measure _____ acres _____ annas _____ pie, that no one has any right of property therein, and that no objection exists to granting it away, that it belongs to the _____ Class, that is to say, (reed and long grass jungle, or as the case may be), and the said _____ having satisfied me that he possesses sufficient means to redeem the

said land agreeably to Section 15 of the Rules for granting waste lands, dated _____ 186 ,

It is ordered

That on the said _____ executing the bond required by Section 7 of the said Rules, the aforesaid land measuring _____ acres _____ annas _____ pie, and situated and bounded as described in the plan annexed to the proceedings, be granted to the said _____ at the following rent :—

From 186 -6 to 18 _____ Free.

"	Rs.	A.	P.
"	Rs.	A.	P.
"	Rs.	A.	P.

and subject to the other terms and conditions of the Rules for the granting of waste land in the Province of British Burmah, sanctioned by the Government of India under date the _____ 186 .

Deputy Commissioner.

FORM No. 4.

Form of Bond under Rule V.

Whereas the Deputy Commissioner of _____ has by an order passed on the _____ in Revenue case No. _____ of 186 -6 declared himself willing to confer on me a grant of a parcel of waste land, measuring _____ acres _____ annas _____ pie, situated in the village of _____ Circle of _____ Township of _____ and bounded on the North by _____ on the East by _____ on the South of _____ on the West by _____ on condition of my executing a bond binding myself to abide by the conditions prescribed in certain Rules for the granting of waste land in the Province of British Burmah, sanctioned by the Government of India, under date the _____ 186 .

Now I, _____ do, in consideration of the said promise, hereby agree and bind myself, my heirs, executors, administrators, and assigns, to abide by all the conditions prescribed by the said Rules, as applicable to the parcel of land above described, so long as the said land shall continue in the possession of myself or of my said heirs, executors, administrators, or assigns; failing where-in, the Deputy Commissioner or other Officer duly empowered shall be entitled to cancel the said grant and to resume the said lands on behalf of Government. And I do further agree to observe and abide by the General Revenue Rules of the Province of British Burmah as now existing.

Witness my hand this _____ day of _____

In the presence of _____

FORM No. 5.

Form of Order by the Deputy Commissioner on the Bond required by Rule V being filed duly executed.

Revenue side. In the Court of the Deputy Commissioner of _____

The _____

No. _____ of 186 .

Petitioner.

Whereas the Petitioner _____ has duly executed the Bond required of him by the order of the Court, passed in this case on the _____

It is ordered

That a grant of the land be delivered to the said _____ agreeably to the said order, and that he be registered as the proprietor thereof.

Deputy Commissioner.

FORM No. 6.

Form of Grant of Waste Lands.

Whereas _____ has applied for a grant of a parcel of waste land, measuring _____ acres _____ annas _____ pie, situated in the village of _____ Circle of _____ Township of _____ bounded on the North by _____ on the East by _____ on the South by _____ on the West by _____

And whereas the said _____ has executed a bond agreeing, in consideration of obtaining the said grant, to abide by the conditions prescribed by the Rules for the granting of waste land in the Province of British Burmah, sanctioned by the Government of India, under date _____

Now I, _____ Deputy - Commissioner of _____ by virtue of the power and authority vested in me by the said Rules, subject to the confirmation and orders of the Governor General of India in Council, do hereby grant unto the said _____ his heirs, executors, administrators, and assigns, the parcel of land heretofore described, conditional on the payment of rent and cesses for local purposes by the said _____ at the rates and in the manner prescribed in the Rules aforesaid, and on his abiding by all other conditions of the Rules aforesaid.

And in the event of the said _____ his heirs, executors, administrators, or assigns failing to pay rent and cesses as aforesaid, or to abide by any other of the conditions aforesaid, then these presents to be null and void and of no other effect, and the parcel of land aforesaid to revert to and

become the entire and absolute property of Government, free and quit of any claim whatsoever in, to, or on account of, the said land on the part of the said _____ his heirs, executors, administrators, or assigns.

Given under my hand and seal this _____ day of _____

Deputy Commissioner.

FORM No. 7.

Form of Report of the Officer or Clerk who has charge of the Register of Waste Lands under the Deputy Commissioner.

Certified that, agreeably to the order of the No. of Grant, Deputy Commissioner in Revenue case No. _____ page in the Register of 1865, dated _____ has been this day registered by me as the grantee of a parcel of waste land, measuring _____ acres _____ annas _____ pie, situated in the village of _____ Circle of _____ Township of _____

Dated _____

In charge of Register of Waste Lands.

FORM No. 8.

Form of Final Order by the Deputy Commissioner.

Revenue side. In the Court of the Deputy Commissioner of _____ the _____

No. _____ of 186 _____

Petitioner.

Read report by _____ that the grant to _____ has been duly registered.

The case to be struck off the file as disposed of.

Deputy Commissioner.

FORM No. 9.

Form of Notice prior to Resumption of a Grant under Rule VI.

Revenue side. In the Court of the Deputy Commissioner of _____

The _____ No. _____ of 186 _____

In the matter of the resumption of a grant of waste land in _____ of which _____ is the registered proprietor. To _____ registered proprietor of a parcel of land measuring _____ acres _____ annas _____ pie, situated in _____

Whereas there is good reason to believe that you have failed to abide by Section _____ of the Rules for the grant of waste lands in the Province of British Burmah, sanctioned by the Government of India under date _____

Notice is hereby given to you, agreeably to Section _____ of the said Rules, that you are required to appear in this Court on _____ the _____ to show cause why your estate should not be resumed.

Given under my hand and the seal of the Court this _____ day of _____

Deputy Commissioner.

FORM No. 10

FORM OF BOND BY A CULTIVATOR FOR PAYMENT OF RENT UNDER RULE XII.

I the undersigned _____ do hereby agree and bind myself to pay to _____
 registered proprietor of the land rented by me as herein below described, rent for the said land for
 the year _____ as under, on or before the _____

No.	Name of Cultivator.	Area of land leased to Cultivator.	Rate per Acre agreed to be paid as rent.	Total amount of rent.	Situation and boundaries of land leased.	REMARKS.

Signed by _____ on the _____ in the name of _____ Cultivator.

FORM No. 11

FORM OF BILL OF DEMAND UNDER RULE XII.

To _____

I hereby demand from you payment on or before the _____ of rent for the year 18____
 due by you for the land rented by you of me as herein below specified.

No.	Name of Tenant.	Area of land leased by Tenant.	Rate per Acre agreed to be paid as rent.	Total amount of rent.	Situation and boundaries of land rented.	REMARKS.

Dated _____

Regtd. Proptr. of the Estate.

FORM No. 12.

Form of Register of Grants of Waste Lands and subsequent changes of ownership therein,—
Vide Rules XIV and XV.

ORIGINAL GRANT.

No. of Grant.	Circle.	Village.	Area of Grant.	Number of Revenue Case containing the plan of the Estate and order for the Grant.	Boundary of Grant.	Date of Grant.	Name of Grantee.	Signature of Deputy Commissioner or other Revenue Officer making the Grant.

CHANGES OF OWNERSHIP IN THE ABOVE GRANT.

Date of Transfer.	By whom transferred.	To whom transferred.	Nature of Transfer.	Signature of party transferring the Estate.	Attestation by Deputy Commr. or Officer in charge of the Regtr.
			Sale, gift or inheritance.		
			<i>Note.</i> —Mortgage or lease is not a transfer of Ownership.		

Note.—A separate Register to be kept for each *Township*, and a distinct portion of each Register to be allotted to each Circle. A separate page to be allotted to each *Grant* as in this form, the upper portion describing the Original Grant and identifying the Estate, the lower portion showing the subsequent changes of ownership. If a Grant is divided (which can only be done with the special leave of the Deputy Commissioner) the division should be noted in the page belonging to the Original Grant. The divided portions should each be entered afresh on separate pages, the numbers of which should be noted on the page belonging to the Original Grant for facility of reference.

POLITICAL.

No. 296.

The 5th April 1865.

Mr. W. S. Steel, Consul for His Majesty the King of the Netherlands, and Vice Consul for His Majesty the King of Denmark at the port of Rangoon, resumed charge of his duties on the 21st of February 1865.

GENERAL.

No. 780.

Assistant Surgeon W. J. Moore resumed medical charge of the Joudhpore Political Agency on the afternoon of the 12th March.

No. 781.

Mr. R. Temple, Chief Commissioner of the Central Provinces, has obtained leave of absence on private affairs for six months, under Section 9 of the new Civil Service Absentee Rules, together with 20 days' preparatory leave, from the date on which he may make over charge of his office.

The following arrangements are made in consequence:—

Mr. J. S. Campbell, Judicial Commissioner, Central Provinces, to officiate as Chief Commissioner during Mr. Temple's absence.

Mr. R. E. Egerton, Commissioner of the Nagpore Division, to officiate as Judicial Commissioner of the Central Provinces.

Mr. A. C. Lyall, Deputy Commissioner of Hoshungabad, to officiate as Commissioner of the Nagpore Division.

No. 783.

Mr. H. Dennys is appointed to officiate as an Extra Assistant Commissioner in the Central Provinces, in room of Pundit Rai Kishen Narain, absent on leave. Notification No. 105 of 16th January last is accordingly cancelled.

No. 784.

Ashfaq Hossein, Extra Assistant Commissioner of Nursingpore, in the Central Provinces, has obtained five months' leave of absence on private affairs, from the date on which he may avail himself of it.

Nehal Chund, Tehsildar of Gururwara, is appointed to officiate as Extra Assistant Commissioner during the absence of Ashfaq Hossein.

No. 798.

The 6th April 1865.

His Excellency the Governor General in Council is pleased to extend to the Hyderabad Assigned Districts the provisions of Act II of 1863, being an Act to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the general Regulations.

No. 804.

The 7th April 1865.

The services of Major A. E. Wilkinson, Assistant Commissioner, 3rd grade, in Oudh, are placed temporarily at the disposal of the Home Department.

No. 806.

Lieutenant E. S. Ludlow, Probationary Assistant Superintendent, Mysore Commission, has obtained privilege leave of absence for thirty days from date of departure, to proceed to Madras and Galle.

No. 808.

Mr. G. S. Lang, Assistant Settlement Officer in Oudh, has obtained leave of absence for 18 days from the 15th instant, or any subsequent date, preparatory to applying for furlough to Europe.

No. 812.

His Excellency the Viceroy and Governor General in Council is pleased to make the following appointments in Rajpootana, consequent on the demise of Lieutenant Colonel E. K. Elliot:—

Lieutenant Colonel W. F. Eden to be Agent Governor General for the States of Rajpootana.

Major J. P. Nixon to be Political Agent, Meywar.

Captain E. C. Impey to be Political Agent, Marwar.

A. COLVIN,

Offg. Under Secy. to the Govt. of India.

FINANCIAL DEPARTMENT.

No. 1885.

Fort William, the 1st April 1865.

NOTIFICATIONS.

Mr. J. Christie, First Assistant Deputy Auditor and Accountant General, Bombay, to officiate as Civil Pay Master, Bombay, from the date of Mr. Mangle's departure for British Burmah.

No. 1950.

The 6th April 1865.

The under-mentioned Despatch is published for general information:—

FINANCIAL.

INDIA OFFICE,

No. 50.

London, 28th February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR,—With reference to Section 6 of the New Civil Absentee Rules, which limits to one week the period within which Officers absent on privilege leave must rejoin their appointments, after the expiration of such leave, I have to acquaint you that it is not intended that the rule in question should be applied in the cases of Officers who may have been granted privilege leave prior to the date of the publication of the Rules.

I have, &c.,

(Sd.) C. Wood.

No. 1960.

Mr. W. J. Raynor received charge of the Office of First Assistant Deputy Auditor and Accountant General, Madras, on the 28th March 1865, from which date Messrs. J. Mackey and H. A. Moraes reverted, respectively, to the acting appointments of 2nd Assistant Deputy Auditor and Accountant

General and Chief Assistant in the Office Establishment of the Deputy Auditor, Madras.

No. 1977.

Mr. C. R. Kiernander, Chief Assistant in charge of the Office of Deputy Auditor and Accountant General, British Burmah, has been allowed one month's leave of absence on urgent private affairs.

E. H. LUSHINGTON,
Secy. to the Govt. of India.

MILITARY DEPARTMENT.

Fort William, the 1st April 1865.

No. 345 of 1865.—The services of the under-mentioned Medical Officers are placed at the disposal of the Government of the Punjab:—

Assistant Surgeon A. P. Holmes, M. D., attached to the 37th (The Meerut) Regiment Native Infantry.

Assistant Surgeon E. A. Fitzgerald attached to the 1st Native Infantry.

Assistant Surgeon R. T. Lyons attached to the 20th (Punjab) Regiment Native Infantry.

The 3rd April 1865.

No. 346 of 1865.—The services of Apothecary R. E. Wrafter, of the Subordinate Medical Department, were placed temporarily at the disposal of the Government of the North-Western Provinces, with effect from the 1st December 1864.

No. 347 of 1865.—The services of Major W. Paske, of the Bengal Staff Corps, are placed at the disposal of the Government of the Punjab.

No. 348 of 1865.—The following paragraphs of a Military letter from the Right Hon'ble the Secretary of State for India, No. 45, dated 25th February 1865, are published for general information:—

1. The under-mentioned Officers have been permitted to return to their duty, viz:—

Major H. A. Brownlow.
Captain A. A. Bruce.

Captain H. C. Sitwell.

„ J. L. Watts.

Lieutenant R. B. Mackenzie.

„ E. Y. Walcott.

„ D. Pringle.

Assistant Surgeon T. Duka, M. D.

2. The under-mentioned Officers have been granted extensions of leave for the periods specified, viz:—

Lieutenant Colonel D. S. Dodgson	6 months.
„ A. Bagot	6 „
Major J. A. Steel	6 „
„ E. Thompson	6 „
Captain A. D. Vanrenen	5 „
„ L. de H. Larpent	2 „
„ G. Wheeler	6 „
„ W. Hichens	6 „
„ J. C. Miller	6 „
„ P. G. Cornish	6 „
Lieutenant G. R. Hennessy	6 „
„ J. M. Glubb	6 „
„ J. S. Robinson	6 „
„ J. Colledge	6 „
„ F. W. Macmullen	6 „
Assistant Surgeon N. B. Baillie	6 „
„ J. J. T. Lawrence	6 „
„ J. Duncan	6 „
Veterinary Surgeon R. W. Murray	6 „

3. Surgeon C. Mathias has been permitted to retire from the service from 27th January 1865.

4. Intelligence has been received of the death of Lieutenant General R. Powney, of the Royal (Bengal) Artillery, on the 23rd January 1865. This casualty will bring Major General Alexander, C. B., into the receipt of the Colonel's allowance. The next vacancy which may occur amongst Officers receiving the Colonel's allowance will lapse as regards that allowance.

No. 349 of 1865.—The under-mentioned Officer has reported his return from England:—

*Date of arrival
at Fort William.*

Assistant Surgeon J. R. Jackson, M. D., of the Medical Department, Superintendent, Allahabad Central Prison. } 3rd March 1865.

No. 350 of 1865.—The following promotions are made in the under-mentioned Corps of the Native Army:—

Corps.	Rank and Names.	To what rank promoted.	From what date.	In whose room.
Sappers and Miners ...	Jemadar Gowree Dutt (1)	Subadar ...	1st Oct. 1864.	To complete the Establishment.
Ditto.	Havildar Bindrabund ...	Jemadar ...	Ditto.	Gowree Dutt, promoted.

No. 351 of 1865.—Deputy Commissary John Brooke, Sub-Engineer of the Department of Public Works, is permitted to retire from the service on the pension of his rank, with effect from the 31st March 1865, and with permission to reside and draw his pension in Europe.

No. 352 of 1865.—The following promotions are made subject to Her Majesty's approval :—

Corps.	Rank and Names.	To what rank promoted.	From what date.	In whose room.
Cadre of the late 50th N. I.	Lieutenant (Captain in the Staff Corps) George Johnston Reeves.	Captain ...	25 Mar. 1865	Brevet Major H. E. Read, deceased.
Cadre of the late 53rd N. I.	*Lieutenant Henry Collett (Staff Corps).	Captain ...	16 July 1864	Captain W. R. E. Alexander, Staff Corps, promoted in Cadre of late 53rd Native Infantry.

* This cancels the promotion of Lieutenant R. N. Evans, Cadre of the late 53rd Native Infantry, who died at Sea, when on his way home from India, on the 5th June 1863, announced in Government General Order No. 868 of 1864.

No. 353 of 1865.—Deputy Assistant Commissary Alexander Bremner, Sub-Engineer, Department of Public works, is permitted to retire from the service on the pension of his rank, with permission to reside and draw his stipend in India, with effect from the 1st March 1865.

The 4th April 1865.

No. 354 of 1865.—With reference to Government General Order No. 857 of the 1st November 1864, the services of Assistant Surgeon T. W. Sheppard are placed at the disposal of the Government North-Western Provinces.

No. 355 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on urgent private affairs :—

Lieutenant Edward George Newnham, of the General List Infantry, Doing-duty Officer, 17th Bengal Cavalry. } For 6 months, without pay.

No. 356 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

Major Henry Murray Garstin, of the Bengal Staff Corps, Commandant of the 42nd (Assam) Regiment Light Infantry. } For 20 months.

Captain (Brevet Major) Archibald Oliver Wood, of the late 14th Regiment Native Infantry. } For 20 months, under the old Regulations.

No. 357 of 1865.—The following Military letter from the Right Hon'ble the Secretary of

State for India, No. 52, dated 25th February last, is published for general information :—

MILITARY.

INDIA OFFICE,

No. 52. London, 25th February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR,—Your letter dated 21st December last, No. 491, solicits instructions whether an Officer of a British Regiment which may be ordered home, and embark not long before the completion of his period of probation, may be allowed to continue in India, on Indian pay and allowances, in order to complete the period, pass the tests, and join the Staff Corps.

2. Your Government are of opinion that, if there is any vacancy for the Officer so situated to fill on his passing, or if his joining the Staff Corps will not unduly increase the number of reserve Officers, he may be allowed to remain, provided fair reason for expecting him to pass the tests satisfactorily can be shown, and the application is supported by the Head of his Department and by the Commander-in-Chief.

3. I agree in the view taken by your Government on this subject.

4. This despatch has been submitted to, and has received the concurrence of, the Field Marshal Commanding-in-Chief.

I have, &c.,
(Sd.) C. WOOD.

No. 358 of 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 54 of the 28th February last, is published for general information :—

MILITARY.

INDIA OFFICE,

No. 54. London, 28th February 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR.—With your letter dated 6th January, No. 13, you transmit papers relative to a question

raised by Dr. F. Anderson, Deputy Inspector General of Hospitals, as to whether an Officer of the Indian Medical Service can retire on half pay under the same conditions as are necessary in the case of an Officer of the British Medical Department, i. e., without residing in a temperate climate for the usual term of a furlough.

2: My despatch dated 16th May last, (No. 152, paragraph 15) out of which this question has arisen, referred to Officers compelled to leave the service on account of ill health, and entitled to half pay pension under present Regulations. By those Regulations an Officer is precluded from retiring from the service on half pay pension in India. Under these circumstances, the view taken by your Government is quite correct, viz., that my despatch referred to merely altered the rate of pension, and did not affect the rule of the service, which requires an Officer, to entitle him to half pay pension, first to try the effects of a temperate climate.

I have, &c.,
(Sd.) C. WOOD.

No. 359 of 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 60 of the 3rd March 1865, is published for general information:—

MILITARY.

INDIA OFFICE,

No. 60.

London, 3rd March 1865.

To His Excellency the Right Hon'ble the Governor General of India in Council.

SIR.—Her Majesty has been pleased to approve of Lieutenant General Sir J. G. LeMarchant, G. C. M. G., being placed upon the staff of the Army in India as a Lieutenant General, with a view to his Commanding the Troops in Madras, in succession to Lieutenant General Sir Hope Grant, G. C. B., who has accepted the appointment of Quarter Master General at Head Quarters.

I have, &c.,
(Sd.) C. WOOD.

No. 360 of 1865.—Captain W. W. Aubert, 2nd Examiner, Pay Department, is allowed leave of absence for six months, from the 1st instant, to visit Simla, on medical certificate, under the old Regulations.

No. 361 of 1865.—Captain H. A. Cockburn, Pay Master and Superintendent of Native Pensioners, Lucknow Circle, is allowed leave of absence for six months from the 12th instant, to visit Mussoorie and Cashmere, on medical certificate, under the new Regulations.

No. 362 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointments:—

Captain H. D. Battye, Assistant, Pay Department, to officiate as 2nd Examiner, Pay Department, during the absence on sick leave of Captain W. W. Aubert, or until further orders.

Captain J. P. Martin, Assistant, Pay Department, to officiate as Pay Master and Superintendent of Native Pensioners, Lucknow Circle, during the absence on sick leave of Captain Cockburn, or until further orders.

The 5th April 1865.

No. 363 of 1865.—The under-mentioned out-Pensioners of the Royal Hospital at Chelsea having been permitted to reside and draw their stipends in India, payment of pensions is to be made and charged accordingly:—

	Rate of pension per diem.
Park Sergeant William Hardy, late of the 16th Brigade Royal Artillery.	2s. two shillings, from the date on which he ceases to receive Regimental pay.
Private Dennis Collins, of the 107th Foot.	1s. one shilling, from the date on which he ceases to receive Regimental pay.

No. 364 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

Lieutenant Colonel Henry Edward Landor Thuillier, of the Royal Artillery, Surveyor General of India and Super- intendent of the Topographi- cal and Revenue Surveys.	For 20 months, under the new Regulations.
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------

No. 365 of 1865.—Under the authority of the Right Hon'ble the Secretary of State for India, the name of Lieutenant William Pooley Onslow, borne on the Cadre of the late 11th Regiment Native Infantry, is struck off the list of the Bengal Army, with effect from the 31st July 1864.

The 6th April 1865.

No. 366 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Captain James Sykes, of the Bengal Staff Corps, Sub- Assistant Commissary Gen- eral, and Officiating Deputy Assistant Commissary Gen- eral.	For 15 months.
Captain Henry Brougham Chalmers, of the Bengal Staff Corps, Assistant Com- missary General.	For 20 months.

No. 367 of 1865.—The under-mentioned Non-Commissioned Officer and Soldier of Her Majesty's service are permitted to reside and draw their pay

in India as out-Pensioners of Chelsea Hospital, according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of their pensions:—

Trumpet Major Josiah Booth, of the 24th Brigade, Royal Artillery.

Gunner William Kennedy, C. Battery, 19th Brigade, Royal Artillery.

No. 368 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

Lieutenant Colonel Frederick Charles Maisey, of Infantry,	} For 20 months, under the new Regulations.
Deputy Judge Advocate General, Army Head Quarters.	

No. 369 of 1865.—The under-mentioned Warrant Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Conductor James Wilks, of the Army Commissariat Department.	} For 20 months.
Conductor Joseph Hargreaves, Senior, of the Army Commissariat Department.	

No. 370 of 1865.—Subadar Appavoo, of the Madras Sappers and Miners, is promoted from the 2nd to the 1st Class of the "Order of British India," with the title of "Sirdar Bahadoor." Subadar Mahomed Sullimon, of the 3rd Regiment Madras Light Infantry, is admitted to the 2nd Class of the "Order of British India," with the title of "Bahadoor."

	} From the 17th February 1865, in succession to Pensioned Subadar Major Rama, "Sirdar Bahadoor," deceased.

No. 371 of 1865.—The services of Lieutenant H. T. Christie, of the General List, Bombay Infantry, are placed at the disposal of the Commander-in-Chief for appointment on His Excellency's personal staff.

The 7th April 1865.

No. 372 of 1865.—Under instructions from the Right Hon'ble the Secretary of State for India, the promotion of Lieutenant Colonel M. Galwey, C. B., Madras Infantry, to the rank of Colonel in the Army, announced in Government General

Order No. 751 of the 15th September 1864, is to be held to have effect from the 9th May 1863, instead of the date previously fixed.

No. 373 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Major George Swiney, of the Bengal Staff Corps, District Superintendent of Police, Allahabad.	} For 20 months.
Assistant Surgeon Augustus Kepple Reed, of the Medical Department, Garrison Assistant Surgeon, Attock.	

No. 374 of 1865.—The under-mentioned Officer has reported his return from England:—

Date of arrival at Fort William.

Lieutenant H. A. Rooke, of the late 12th Regiment Native Infantry.	} 31st March 1865.

No. 375 of 1865.—The under-mentioned Officer having completed twenty years' service, six years of which were on permanent staff employ, to be Major from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval:—

Bengal Staff Corps.

Captain (Brevet Major) A. LeGallais	} 3rd April 1865.

No. 376 of 1865, *Erratum*.—In Government General Orders Nos. 892 of 1864 and 258 of 1865, making and cancelling certain Brevet promotions, for "Lieutenant" F. A. Sage, read *Captain* F. A. Sage, Order Books to be corrected accordingly.

No. 377 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

Captain Henry White Best, of the late 5th European Light Cavalry, 2nd in Command and Squadron Officer, 17th Bengal Cavalry.	} For 3 years, under the old Regulations.

H. W. NORMAN, Colonel,
Secy. to the Govt. of India.

NOTIFICATION.

Port William, the 7th April 1865.

In conformity with Government General Order No. 144 of 1852, the following Statement of Deposits made at the Presidency Pay Office, during the month of March 1865, on account of the Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of the Indian Military Forces of Her Majesty, is published for general information; and it is hereby notified that claims to the Estates in question, which shall not be preferred to the Presidency Pay Master by Executors and Administrators, before the conclusion of twelve months after the date of decease, cannot be attended to in this country, as the money after that period will be remitted to, and made payable by, the Secretary of State for India.

Statement of Deposits made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of Her Majesty's Indian Military Service, in the month of March 1865.

Date of Deposit.	On whose account.	Rank.	Corps.	General Number.	Date of decease.	Testate or Intestate.	Amount of monies accruing from the adjustment of Estates.	Amount of Donation Batta due to Estates.	Total unclaimed amount deposited.	HOW DISPOSED OF.			Rate of Exchange.
										Amount paid in India.	Amount retained in India.	Amount remitted for payment in England.	
7th Mar. 1865	Commissioned and Warrant Officers.						Rs. A. P.		Rs. A. P.				
" "	(a) Augustus William Cripps...	Captain	Bengal Staff Corps	...	28th Aug. 1864	Testate	1,833 2 0	..	1,833 2 0				
" "	(b) Henry Cant	Asst. Apothecary.	Subde. Mdl. Dept., attached to H. M.'s 71st Highlanders.	...	28th Jan. 1865	Intestate	137 9 4	..	137 9 4				
8th "	(c) Henry Muirson Caulfield ..	Captain	Late 4th Bl. En. Lt. Cavy.	...	5th Oct. 1864	Ditto	429 4 11	..	429 4 11				
15th "	(d) Oscar Byrne	Asst. Surgeon	Bl. Mdl. Service	...	25th Nov. "	Ditto	170 9 4	..	170 9 4				
17th "	(e) Thomas George Macaulay	Lieutenant	15th Regt. Native Infy ..	...	5th Aug. "	Unknown	221 8 0	..	221 8 0				
20th "	Frederick Richard Turner	Ditto	4th ditto	...	2nd May "	Ditto	139 6 11	..	139 6 11				
28th "	(f) Edward Robert Blair	Captain	51st Native Infy.	...	9th Dec. 1863	Intestate	1,810 8 4	..	1,810 8 4				
31st "	(g) George Welby Eaton	Lieutenant	Late 73rd Native Infy...	...	12th Oct. 1864	Ditto	89 1 0	..	89 1 0				
" "	(h) Dashwood Ross	Captain	Bl. Staff Corps	...	9th June "	Ditto	506 2 4	..	506 2 4				
" "	Carried over	.....	.....	...	.....	..	5,337 4 2	..	5,337 4 2				

(a) Widow, Mrs. Caroline Mary Ann Cripps.
 (b) Next of kin, father, Mr. Cant, pensioner, Chunar.
 (c) Widow, Mrs. Susan Harriet Caulfield, and a daughter in England.
 (d) Widow, Mrs. Ellen Mary Byrne, No. 7, Camac Street, Chowringhee, Calcutta.
 (e) Next of kin, father, Mr. Teohury Macaulay.
 (f) Next of kin, brother, James Blair, Captain, 2nd Bombay Light Cavalry, besides a sister and two other brothers.
 (g) Widow, Mrs. Jeanette Eaton.
 (h) Next of kin, not known.

Statement of Deposits made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers, &c.,—continued.

Date of Deposit.	On whose account.	Rank.	Corps.	General Number.	Date of decease.	Testate or Intestate.	Amount of monies accruing from the adjustment of Estates.	Amount of Donation Batta due to Estates.	Total unclaimed amount deposited.	HOW DISPOSED OF.			Rate of Exchange.
										Amount paid in India.	Amount retained in India.	Amount remitted for payment in England.	
	Brought forward	.....	.....	...	.....	...	Rs. A. P. 5,337 4 2	...	Rs. A. P. 5,337 4 2				
<i>Non-Commissioned Officers and Soldiers.</i>													
7th Mar. 1865	(a) William Foster	Barrack Sergeant	Unattached List	...	25th Oct. 1864	Intestate	71 2 9	...	71 2 9				
13th "	(b) William Barnard	Acting Barrack Sergeant.	.....	...	23rd July 1863	Ditto	50 0 0	...	50 0 0				
13th "	(c) John Robinson	Private	H. M.'s 21st Hussars	38	27th Mar. "	Unknown	12 0 0	...	12 0 0				
13th "	John Goodhall	Gunner	A. By. 19th Bde. R. A....	10383	.....	Ditto	26 5 9	...	26 5 9				
	Total	.....	.....	...	.....	...	5,496 12 8	...	5,496 12 8				

(a) Widow, Mrs. Selina Foster and two children.
(b) Next of kin, father, W. S. Barnard, Shoreditch, London, Middlesex.

(c) Two daughters at the Lawrence Asylum, Murrée, and a son at Meean Meer.

FORT WILLIAM,
PAY OFFICE,
The 31st March 1865.

C. F. M. MUNDY, Lieut. Colonel,
Presidency Pay Master.

H. W. NORMAN, Colonel,
Secy. to the Govt. of India.

PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 126.

Fort William the 3rd April 1865.

NOTIFICATIONS.

Lieutenant G. L. B. Simmons, R. E., Assistant Engineer, 2nd grade, British Burmah, is posted to the Rangoon Division.

No. 127.

Three months' privilege leave has been granted to Mr. Deputy Commissary J. Brook, Sub-Engineer, 1st grade, Mysore, with effect from 1st January 1865.

No. 128.

Mr. W. B. Macrone, Executive Engineer, 4th grade, Officiating in charge of the Boolundshuhur Branch of the Ganges Canal, is appointed to officiate as Assistant Secretary to the Government of India, in the Public Works Department, vice Lieutenant C. H. Luard, R. E., who has been appointed to act as Deputy Consulting Engineer, Railway Department, Bengal.

No. 129.

The 5th April 1865.

Mr. W. R. Chill, 4th Class Accountant, Oudh, has been permitted to resign his appointment from the 15th February 1865.

No. 130.

Sub-Conductor J. L. Hughes, Supervisor 2nd grade, Oudh, is transferred to the Rajpootana Circle, Central India.

C. H. DICKENS, *Lieut. Colonel, R. A.,*

Secy. to the Govt. of India.

ADVERTISEMENTS.

NOTICE.

Lost in transit by Post between Dumoh and Calcutta the 1st halves of Central Provinces Currency Notes, Nos. 60417 and 60418, for Rs. 20 each. Notice has been sent to the Offices of Issue at Nagpore and Calcutta.

NOTICE.

Required for the Akyab Treasury Department a Head Clerk, salary, Rs. 200 per mensem. None need apply who have not good testimonials, both of their ability to fulfil the duties of the Office and general good character.

AKYAB,
DEPY. COMMRS'S OFFICE; } E. J. SPILSBURY.
The 25th March 1865. } *Depy. Commr.*

NOTIFICATION.

NATIONAL BANK OF INDIA, "LIMITED."

Issue of Shares.

In consequence of the great increase which has taken place in the business of this Bank during the past three months of the current half-year, and the steady increase which is going on, the Directors of the National Bank of India, "Limited," have determined, in virtue of the powers vested in them by Section 6 of the Bank's Articles of Association, to issue the 10,000 unissued Shares, of the nominal value of Rs. 500 each, representing the unsubscribed portion of the authorized Capital of the Company. Five thousand of these Shares have been taken up in Bombay, and the remaining five thousand Shares will be issued to the holders of the present subscribed stock in the following manner:—

1st.—That the new Shares be offered to the Proprietors of the present subscribed stock at Rupees twenty premium per Share, and that each Registered Proprietor be entitled to take up one new Share for every two old Shares he holds at the close of business on the twenty-fourth day of April, instant, and that the transfer Books be closed from that date until 1st May, proximo, inclusive.

2nd.—That a payment of Rupees one hundred and twenty per Share, viz., Rupees twenty on account of premium to be carried to Reserve Fund, and Rupees one hundred per Share, as the first instalment towards payment of each new Share, be made on or before the 1st day of May, proximo, and that the remaining one hundred and fifty Rupees per Share be paid on or before 1st July 1865.

3rd.—That any Proprietor, resident in India, failing to pay the first instalment of Rupees one hundred and twenty per Share on or before the 1st day of May 1865, and any Proprietor, resident out of India, failing to make said payment within three months from the date of this notification, shall forfeit all right to such new Shares as he or she might otherwise have been entitled to, and the Shares so forfeited shall be disposed of at the discretion of the Directors.

4th.—That of the payment of Rupees one hundred and twenty, payable on or before the 1st day of May 1865, Rupees one hundred shall bear interest, at the rate of six per cent. per annum, from date of payment to 30th June 1865, and that after that date the new Shares shall participate in Dividend for the half-year ending 31st December 1865.

Parties failing to pay the second Call of Rupees one hundred and fifty per Share on or before the 1st of July 1865, will be charged interest, at the rate of twelve per cent. per annum, from that date till date of payment.

By order of the Directors,

R. O. SAWERS,

Manager.

NATIONAL BANK OF INDIA, "LD." }
Calcutta, 3rd April 1865.



SUPPLEMENT TO The Gazette of India.

CALCUTTA, SATURDAY, APRIL 8, 1865.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE OF INDIA will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.

No Official Orders or Notifications the publication of which in the GAZETTE OF INDIA is required by Law, or which it has been customary to publish in the CALCUTTA GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to.

Government of India.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., cap. 67.

The Council met at Government House on Friday, the 31st March 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.
His Honour the Lieutenant Governor of Bengal.
The Hon'ble H. B. Harington.
The Hon'ble W. Grey.
The Hon'ble H. L. Anderson.
The Hon'ble J. N. Bullen.
The Hon'ble Mahārājā Vijayarāma Gajapati, Rāj Bahādūr of Vizianagram.
The Hon'ble Rājā Sāhib Dyāl Bahādūr.
The Hon'ble W. Muir.
The Hon'ble R. N. Cust.
The Hon'ble Mahārājā Dhīraj Mahtab Chand Bahādūr, Mahārājā of Burdwan.
The Hon'ble D. Cowie.

STAMP ACT AMENDMENT BILL.

The Hon'ble MR. HARRINGTON presented the Report of the Select Committee on the Bill to amend Act X of 1862 (to consolidate and amend the law relating to Stamp Duties).

CIVIL AND CRIMINAL COURTS' (PUNJAB) BILL.

The Hon'ble MR. CUST presented the Report of the Select Committee on the Bill to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.

CIVIL COURTS' (CENTRAL PROVINCES) BILL.

The Hon'ble MR. HARRINGTON moved that the Report of the Select Committee on the Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces be taken into consideration. He said that the publication of the Bill had been followed by the receipt of some very useful suggestions from the Judicial Commissioner of the Central Provinces, in which the Chief Commissioner had expressed his concurrence. The Select Committee, to which the Bill was referred in the usual course, were of opinion that most of these suggestions might be adopted with advantage, and, as noticed in their Report, they had recommended that the Bill should be amended accordingly. The proposed alterations would, he believed, greatly improve the character of the Bill, and conduce to its satisfactory working. But the Judicial Commissioner had made two suggestions, to which the Select Committee, after much discussion, considered that they could not properly assent. One of these suggestions was that the Government should have power to invest any person with jurisdiction to try Civil suits of a given amount. This was considered necessary by the local authorities with reference to the character and circumstances of certain Chieftains or Zemindars in the Central Provinces. The other suggestion was that the Judicial Commissioner and the other local Appellate Courts should be allowed to continue the exercise of the power with which they were now invested of reviewing of their own authority, and without any appeal, application, or objection on the part of any interested party, the decisions and orders of the subordinate Courts at any time within one year after the passing or execution of such decisions and orders, and of altering or reversing the same. As regarded the former of these suggestions, it appeared to the Select Committee that the preferable arrangement would be to establish a Court of one of the grades mentioned in the Bill within the tract of country belonging to any of the Chief.

tains or Zemindars referred to, when such tract formed part of the British territories in India, and was subject to the Acts of the Indian Legislature, or to appoint a Naib Tahsildar and to invest him with Civil jurisdiction in such tract, for which the Bill made provision. With respect to the other suggestion, which proposed to continue a practice forming part of what was generally known as the patriarchal system, the Select Committee had observed as follows: "We do not concur in the suggestion of the Judicial Commissioner that every Appellate Court should be empowered, within a year after any order shall have been passed by a subordinate Court, to call up the case and revise the order. Where, as is the case in the present Bill, all proper facilities for appeal are allowed, we do not think it expedient to permit an Appellate Court to interfere except on appeal regularly preferred. In the absence of an appeal, it is only fair to presume that all parties are satisfied with the decision or are willing to submit to it, and it would be opposed to every principle of justice to allow any Court, of its own motion, to re-open the matter after an interval during which the decree has probably been executed and the whole litigation settled."

A further suggestion made by the Judicial Commissioner in respect to investing Judges of Courts of Small Causes with powers corresponding to the powers of a Principal Sudder Ameen, had been anticipated by the framers of the Act, lately passed for consolidating and amending the laws relating to the establishment of Courts of Small Causes beyond the limits of the Presidency Towns of Calcutta, Madras, and Bombay. The fifty-first Section of this Act contained a provision similar to that suggested by the Judicial Commissioner, and appeared to have done all that was necessary in the direction of that suggestion.

The Motion was put and agreed to.

The Hon'ble MR. HARRINGTON, with the permission of His Excellency the President, moved that the following new Section be inserted after Section 24 of the Bill. He apologized for not having circulated a notice of the proposed amendment in time to admit of Hon'ble Members considering it before they met to-day, but there had been some delay in printing the Section which had only just been put into his hands:—

"The Governor General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act No. XVI of 1865 (to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner."

The Hon'ble MR. HARRINGTON proceeded to say that this Section was proposed to be added to the Bill at the request of the Chief Commissioner and Judicial Commissioner of Oude, with whom he had been in communication on the subject. Those Officers were of opinion that the Bill, with the addition of the Section which he had just read, would

be well suited to the circumstances of the Province of Oude, and that its extension to the Province would be attended with considerable advantage, and would place the Courts of the Province on a proper legal basis. It was right, he should mention, that the Judicial Commissioner of Oude, equally with the Judicial Commissioner of the Central Provinces, was anxious that the local Appellate Courts should retain the power which they now possessed of interfering with the decisions and orders of the Courts subordinate to them, although there should be no appeal, and although no objection should be taken by any one affected by the decision or order. The provision to this effect, which now formed part of the Code of Civil Procedure as in force in Oude, was, he believed, introduced on the recommendation of Mr. Campbell, one of the learned Judges of the High Court at Calcutta, at the time he held the office of Judicial Commissioner of Oude. Having lately had an opportunity of speaking to Mr. Campbell on the subject, he gathered from what fell from him, that he considered that the time had passed when the power in question could be exercised beneficially or for the interests of suitors, and that he was of opinion that the power should be withdrawn. In this opinion he (Mr. Harrington) entirely concurred.

The Motion was put and agreed to.

The Hon'ble MR. HARRINGTON then moved that the Bill as amended be passed.

The Motion was put and agreed to.

PARSEES' MARRIAGE AND DIVORCE BILL.

The Hon'ble MR. ANDERSON moved that the Report of the Select Committee on the Bill to define and amend the law relating to Marriage and Divorce among the Parsees, be taken into consideration. He said—"This Bill has undergone the most careful examination by the Select Committee, and many material alterations in its provisions have been made: I have no hesitation in submitting it now to the Council as a measure which has been greatly improved, and as one which will attain the objects which it had originally in view. Those objects were the prevention of bigamy among the Parsees, and the establishment of such a tribunal for the vindication of the obligations arising out of the marriage contract in that community as would command the respect of those appealing to it for protection or redress. I think it very possible that the Parsees will not regard the Bill with the same favour as the Code prepared under their immediate instructions; but as they are each and all of them emphatically men of business, I have a just confidence that they will, on full consideration, recognize the great superiority of the Bill as it now stands to the Bill in the form in which it was originally presented to the Council.

The principal alteration in the Bill is the substitution of Parsee Matrimonial Courts for Pancháyats. With reference to Pancháyats, I would wish to offer a very brief explanation. The term taken by the Parsees from the Hindus around them, has not been very happily chosen, and it does not convey the idea of the kind of tribunal which it was in contemplation to establish. That tribunal was one of which the members were to be chosen by the Parsees themselves, of which the members were men in whom the Parsees had confidence. But it was never intended that the rude "under the tree" mode

of investigation which the idea of a Panchayat suggests, should be adopted. But I freely admit that the Parsee Matrimonial Courts will constitute far more efficient tribunals than the Panchayats, and that they will fulfil all the conditions which the Legislature has a right to impose on an institution which it invests with grave responsibilities. It is proposed, then, to establish Parsee Chief Matrimonial Courts in the Presidency Towns of Calcutta, Madras, and Bombay, and Parsee District Matrimonial Courts in such places as the discretion of the Governor General in Council and the Local Governments may suggest. A District under the Act may include more than one ordinary judicial District; and such places in which, on account of the fewness of the Parsee inhabitants, the Local Governments shall not deem it necessary to establish Matrimonial Courts, are to be regarded as under the jurisdiction of the Chief Matrimonial Courts in the Presidency Towns. The Matrimonial Courts in Calcutta, Madras, and Bombay are to be presided over by the Chief Justice, or other Judge of Her Majesty's High Court of Judicature in those Towns, aided by eleven Delegates, and the District Matrimonial Courts by a District Judge aided by seven Delegates.

The Delegates are to be Parsees, appointed by the Local Governments, and to be in number not more than thirty for a Presidency Town, and not more than twenty for a District as constituted under this Act. From the Delegates thus appointed are to be chosen in due rotation those who assist at the trial of suits in the Matrimonial Courts. The appointment of a Delegate is to be for life, or until resignation, with the usual provision attached to a judicial office of "*quam diu se bene gesserit*." The Local Governments, we may be sure, will always be cautious to appoint the most respectable and intelligent Parsees to this office, and I sincerely trust that the position of a Delegate may hereafter be an object of honourable ambition to Parsee gentlemen. In suits tried in the Matrimonial Courts, all questions of law and procedure will be determined by the presiding Judge, but the decision on the facts is to be the decision of the majority of the Delegates assisting at the trial. Should such be the wish of either party to the suit, the case may be heard with closed doors. The procedure is to be as far as possible that of the Code of Civil Procedure, and an appeal will lie from the decisions of all Matrimonial Courts, whether Chief or District, to Her Majesty's High Court of Judicature.

Now, I think that the Courts which it is thus proposed to establish, will exactly attain the objects which the Bill had in view. All suits for the declaration of nullity of marriages, for dissolution on account of desertion, for divorce and judicial separation, and for restitution of conjugal rights, will, in effect, be decided by the Parsees themselves, while the presence and active supervision of an experienced Judge will be an ample guarantee to the general public, not merely that the investigation will be a fair one—for that, as far as intention goes, would be the result if the matter were left exclusively to the adjudication of the Parsees—but that the complex rules of evidence and the various minutiae which are involved in the conduct of a trial are duly observed, and, what is an important point with an inexperienced tribunal, that the zeal and ability of Advocates have no more than their just weight with those in whom the power of decision is vested.

The Select Committee have made some other important alterations in the Bill. The arrangement that an experienced Judge shall preside in the Matrimonial Courts disposes of the provision that the presidency of the Surat Panchayat should be vested hereditarily in the family of Khursadjí Dosabhai Dávar. This change has been further recommended by the fact that there is not an entire unanimity on the subject among the Parsees of Surat, and still more forcibly by the natural repugnance which is generally felt, and in which I participate, to making a judicial office the subject of hereditary succession. I should, in justice to the Parsees, state that the provision relative to the Dávar did not form a part of the original Code prepared under their instructions, but was introduced at the suggestion of the Government of Bombay as a kind of compromise of some more extensive claims preferred by the Dávar's family.

Another important alteration in the Bill is the omission of the clause which made a change of religious belief, subsequent to a marriage, a ground for rendering the marriage voidable at the instance of either party. The question involved in this alteration received very careful consideration from the Select Committee, and the impression which generally prevailed was, that the principle adopted for discussion was too important to be dealt with otherwise than in a separate measure. The Council has just invited the consideration of all India to the measure relative to the remarriage of Native Converts. Now, I do not mean to imply that the provision in the Parsee Bill stands on the same ground as the relief proposed for Christian Converts. In the one case a man says,—“on account of my religious belief my wife has left me, either compel her to live with me or let me go free.” In the other case, the man says,—“on account of my religious belief my wife has left me, let me go free.” It is obvious that there is a material difference between these two propositions. In the one the man says,—“I want my wife to live with me.” In the other the man says,—“I do not want my wife to live with me.” But though there is this variance in the scope of the two propositions, they both, in some measure, raise the issue of whether a change in religious belief is a valid ground for rendering a marriage voidable. The Council has been desirous that this question should receive the most ample consideration, and it would be obviously impolitic, therefore, at the present time, that a species of liberty should be granted to the Parsees in the matter under discussion. If the Bill of my Hon'ble friend Mr. Maine should become law, as I trust it will, it will then be for the Parsees to apply for relief, and to support their appeal by adequate evidence. But, when the Council is acting with extreme caution as to granting a certain relief to a portion of the community, it is obvious that it cannot grant what is more than relief—what is relaxation—to another portion of the community. I think, then, that the Select Committee was compelled, if only on the lower ground of legislative expediency, to omit the clause, and in saying this I am not insensible to the fact that some may be inclined to take the higher ground of regarding any such concession as wrong in principle.

The arrangements relative to the certification and registration of marriages have been simplified by the Select Committee, and due observance of these arrangements has been secured by the provision of severe penalties.

Many verbal alterations, all of them improvements, have been introduced by the Select Committee, and the Bill may now, I venture to think, be regarded as a complete and symmetrical measure, as one under which there will be no difficulty in administering justice. I feel no diffidence in making this assertion, because I should neither do justice to my own sentiments, nor pay due regard to truth, if I did not state in the most public and unreserved manner, that the Bill is the good Bill it is, through the judgment, caution, and fertility of suggestions which have been brought to bear upon it by my Hon'ble friend Mr. Harington. Both in Committee and in private he has given me the aid of his large legislative experience, and I may say, without the slightest affectation, that the Bill, which will, I trust, be a source of substantial benefit to the Parsees, is more his Bill than mine.

Before I conclude, I would wish to say a word regarding a letter which I have just read in the "Friend of India" evidently written by Mr. Manockjee Cursetjee, one of the Judges of the Small Cause Court in Bombay. I wish to speak of that gentleman with all consideration. He complains that the Bill sanctions infant marriages and revives the Pancháyat. To this I would reply that the Bill does not sanction infant marriages, and that Pancháyats have now been superseded by the Matrimonial Courts. There are some anti-recognizing infant marriages in the Code passed by the Parsees, but these I struck out before the introduction of the present Bill. The Bill does not, it is true, prohibit infant marriages; but, to make it more clear that the Legislature does not approve of such contracts, I will propose, with His Excellency the President's permission, to introduce a new clause, to which my Hon'ble Colleagues have expressed their assent. The Council would not be justified in prohibiting the custom of infant marriages which has obtained so largely and prevailed so long, but it takes the wiser course of declining to enforce them. I shall, in common with Mr. Manockjee Cursetjee, be glad to see the day when the custom shall disappear; but if either of us is to see that result, it will not be by following the course which he would seem to suggest.

The Hon'ble MR. HARRINGTON said that having, on the introduction of this Bill, considered it his duty to object strongly to the provisions which related to the mode in which cases arising under the Bill were to be heard and decided, he thought it right at once to state that all that appeared to him objectionable in the Bill, as introduced, had been struck out, including not only the provisions to which he had referred, but also other provisions to which he thought exception might be taken; and when his Hon'ble Colleague, who was in charge of the Bill, should move presently that the Bill be passed, he would be prepared to give a cordial assent to the motion. He concurred in all that had fallen from his Hon'ble Colleague in support of the amendments which the Select Committee had recommended should be made in the Bill. He had no hesitation in saying that he considered they might place the Bill, altered as proposed by the Select Committee, on the Statute Book with the most perfect confidence. Looking to the nature of the cases to which the Bill was intended to apply, they must all hope that recourse to the provisions of the Bill would not be of frequent occurrence, but when cases, such as the Bill contemplated, did arise, he believed it would be found that the Bill provided a proper and perfectly

competent tribunal for their adjudication, and that under the operation of the Bill as it was now framed, substantial justice would be done between party and party. Their Hon'ble Colleague, who had charge of the Bill, had laid the Parsee community of India under very great and lasting obligations to him by the manner in which he had espoused their cause in connection with the legislation which had occupied so much of the time of the Council during its present sittings, and by the great learning, ability, and skill which he had displayed in conducting the Parsee Bills introduced by him through their several stages; and he ventured to think that the course pursued by their Hon'ble Colleague in respect to the present Bill in its progress through the Select Committee, and particularly his having assented to the various important alterations proposed in Committee, had added very much to the debt of gratitude which the Parsee community owed to him for his exertions in their behalf. He entertained a confident belief that this would be the feeling generally of the Parsee community when they saw the Bill in operation. He could not close these remarks without begging his Hon'ble Colleague to accept his acknowledgments for the manner in which he had spoken of the part taken by him (Mr. Harington) as a Member of the Select Committee in settling the provisions of the Bill. On this point he would only say that, should his Hon'ble Colleague's anticipations as to the successful working of the Bill as now framed be realized (and he had little doubt that such would be the result of their joint labours), it would be a great gratification to him to have taken an active part in giving to the Parsee community, who were so distinguished for their respectability, intelligence, and liberality, this legislative measure.

The Hon'ble MR. MUIR said that having made some strictures upon the original Bill when it was introduced, and having been a Member of the Committee which had been engaged in revising it, he begged to offer a few very brief remarks upon the Bill as it now stood. He entirely concurred in the observations made by his Hon'ble friends Messrs. Anderson and Harington, that the proposed enactment had been most materially improved in its passage through the Committee; and its improvement was mainly owing to the wise and excellent suggestions of Mr. Harington, in conjunction with the labours of the Mover himself.

The serious objections taken to the constitution of the Pancháyats originally proposed, as a Court private, informal, and irresponsible, had now been entirely obviated. The Matrimonial Courts substituted for the Pancháyat would be inferior to no other Courts in the country; they would be presided over by Judges, and be subject to the checks and safeguards of established legal procedure, while the presence of the Parsee Jury, to determine all questions of fact, would secure the confidence and approval of the Parsee community in respect of the trial and disposal of the suits brought before those Courts.

Some of the conditions of divorce contained in the original Bill, which had appeared to him (Mr. Muir) objectionable, had been either removed or modified. And though there were still one or two provisions in the amended Bill, which did not entirely approve themselves to his judgment—he (Mr. Muir) alluded more especially to certain distinctions and conditions contained in the thirtieth Section—still he was prepared to accept the pro-

visions of the Bill as a whole, on the ground stated in the preamble, namely, that they were in conformity with the usages and customs of the Parsees themselves. In this view he was prepared to support the Bill in its present form.

Before concluding those brief observations, he (Mr. Muir) wished to express his concurrence in the remarks which had fallen from his Hon'ble friend Mr. Harington, regarding the part which had been taken by the Hon'ble Mr. Anderson in connection with this measure. He fully agreed with him that Mr. Anderson had laid the Parsee community under a great obligation by the introduction of this Bill; and not less so, by the excellent spirit and candour with which he had received the suggestions made in Committee; and by the careful judgment with which he had brought the Bill into the shape in which he had now presented it to the Council.

The Motion was put and agreed to.

The Hon'ble MR. ANDERSON then, with the permission of His Excellency the President, moved by way of amendment that the following Section be introduced immediately before the thirty-seventh Section:—

"Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees, or any contract connected with or arising out of any such marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years or the wife, shall not have completed the age of fourteen years."

The Motion was put and agreed to.

The Hon'ble MR. ANDERSON then moved that the Bill as amended be passed.

The Motion was put and agreed to.

FINANCIAL COMMISSIONER (OUDH) JURISDICTION BILL.

The Hon'ble MR. CUST moved that the Report of the Select Committee on the Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh, be taken into consideration. He remarked that the changes made in the Bill in the Committee were not material. The word "Land" had been so defined as to exclude from the cognizance of the Revenue Courts land situated in Towns and Cantonments. Mixed claims with regard to land and other property relating to inheritance and succession, were also reserved for the cognizance of the Civil Courts. These alterations were made at the suggestion of the Chief Commissioner and Judicial Commissioner.

A change had also been made in Section 5. The extension of the period of limitation was not to apply to tenants at will, tenants with right of occupancy, or tenants at fixed and favourable rates, but only to those whose tenure was of a higher character.

The Motion was put and agreed to.

The Hon'ble MR. CUST then moved that the Bill as amended be passed.

The Motion was put and agreed to.

SUCCESSION AND INHERITANCE (PARSEES) BILL.

The Hon'ble MR. ANDERSON presented the Report of the Select Committee on the Bill to define and amend the law relating to Succession and Inheri-

tance among the Parsees. He said that it had been his intention to ask His Excellency to suspend the Rules for the Conduct of Business, and to move that the Report be taken into consideration, and that the Bill as amended be passed. He had, however, ascertained that there would be another meeting of the Council, at which, without suspending the Rules, the Bill could be passed. He had also received a communication from Bombay, containing some suggestions which deserved consideration. Under these circumstances, he begged leave to postpone the Motions standing next in the list of business.

The Council then adjourned.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)*

Abstract of the Proceedings of the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., Cap. 67.

The Council met at Government House on Saturday, the 1st April 1865.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

The Hon'ble H. B. Harington.

The Hon'ble Sir C. E. Trevelyan, K. C. B.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble J. N. Bullen.

The Hon'ble Mahārājā Vijayarāma Gajapati Rāj Bahādūr of Vizianagram.

The Hon'ble Rājā Sāhib Dyāl Bahādūr.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble Mahārājā Dhīraj Mahtab Chand Bahādūr, Mahārājā of Burdwan.

The Hon'ble D. Cowie.

CUSTOMS DUTIES.

The Hon'ble SIR CHARLES TREVELYAN in moving for leave to introduce a Bill to amend the law relating to the Customs Duties, said—

In the Budget Statement for 1863-64, the surplus of Income over Expenditure was estimated at £480,775, which was afterwards reduced in the Regular Estimate to £31,529. The actual surplus is £78,347.

The Revenue of 1863-64 was £44,613,032, which was only £358,168 less than the Budget Estimate, although "Opium" was deficient in the large sum of £1,168,001. The increase under "Land," "Forest," "Abkaree," "Assessed Taxes," "Customs," and "Stamps," amounted to £1,303,435. The only one of the ordinary sources of Revenue which fell short of the Estimate besides "Opium," was "Salt." The deficiency under this head amounted to £366,704. It chiefly occurred in Bengal, and was caused by the previously overstocked state of the market.

large sum received from the sale of building sites at Bombay. The increase of £117,776 under "Miscellaneous Civil" arises from the transfer of the balance of the Bhonsla Fund to Revenue, after deducting £30,849, invested with a view to disconnect the Government from certain permanent religious endowments. The pensions chargeable on this Fund much exceeded the annual proceeds, and the excess was paid out of Revenue. The whole of the pensions have now been charged against Revenue, and the Fund has ceased to exist. The increase under "Interest" is caused by increased investments of the Currency Department, and the dividends upon additional shares in the Banks of Madras and Bombay.

The Revenues and Receipts of the year, including "Opium," are £120,236 more than the Budget Estimate, and £1,671,074 more than the Actual Receipts of 1863-64. Excluding "Opium," there is an increase in Revenues and Receipts, compared with the Budget Estimate, of £806,116, and of £988,953 compared with the Actual Receipts of 1863-64.

To proceed to the Estimated Expenditure of the current year 1864-65: the increase of £15,597 under "Customs" arises from recent revisions of establishments at Calcutta and Bombay, whereby the collection of the revenue at those Ports has been placed on a more efficient footing.

The increase under "Salt," £30,943, is caused by higher rates for the purchase and transport of Salt for Malabar, and by increased manufacture in consequence of the large quantity of Salt destroyed in the Krishna District by the late inundation.

The increase under "Opium," £453,679, is for the additional advances, amounting to £644,300, already referred to as having been made on account of the preceding year 1863-64, less a saving of £190,621 upon the ordinary expenditure of 1864-65. Compared with the Actual Expenditure of 1863-64, the increase is £401,347.

The decrease of £97,825 under "Mint" arises from a more correct method of exhibiting the copper received for minting purposes from England. Copper for coinage is now treated in a similar manner to bullion, the Mint profit only being carried to the credit of revenue, and the Copper itself, while uncoined, remaining as a part of the Cash Balance at its intrinsic value.

The saving of £76,185 under "Post Office" is caused by the abolition of the Government Bullock Train; and the increase of £39,022 under "Electric Telegraph" is owing to a payment to the East Indian Railway Company for the construction of a line from Burdwan to Patna in 1856, and to arrear charges of 1863-64 paid during the current year, for which no provision was made in the Budget Estimate.

The principal causes of the large increase in Army Expenditure, estimated at £674,571, are as follows:—

	£
For increased price of Europeans' rations, compensation to Native Troops for dearness of provisions, and increased cost of feeding horses and keeping and hiring Transport Animals	272,500

Substitution of full for half batta, increased pay to Medical Officers, and compensation for extra clothing to European Troops	£ 100,000
Purchase and repair of Barrack furniture: gas fittings for extra lighting, and increased cost of bedding	57,500
Additional bounty and kit money to men re-engaging, compensation for losses of property, appointments, messes, &c.	30,000
Increased consumption of Beer consequent on the diminution of the ration of Rum	35,000
Additional Sea Transport Charges for sending Home two extra Regiments of Infantry and two Batteries and Head Quarters of a Brigade of Horse Artillery, and an additional number of time-expired men	85,000
Retention of Regiments after they were expected to be disbanded or to return Home	50,000
Additional Charges connected with the Bhootan War	160,000

On the other hand, there is a saving of £16,000 for reduced expenditure on rum and arrack, and reduction of Pay Offices at Madras, besides further savings from short establishments and minor reductions.

Compared with 1863-64, the increase in the Military Expenditure is £630,691.

The aggregate grant for "Public Works," including £204,330 charged on the Rampart Removal Fund at Bombay, £250,000 appropriated from the Income Tax, and £566,400 for State expenditure for Railways, amounted to £5,358,730. The actual expenditure is now estimated at £5,685,817, being an increase of £327,087. This increase arises from additional grants, of which the following are the principal:—

Arrear of compensation at Madras for lands taken for public purposes	£ 25,312
Improvement of the Jails in Bengal and the Central Provinces, and works at the Convict Settlement at Port Blair	51,860
Roads in connection with Railways in Bengal and the Hyderabad Assigned Districts	63,630
Repair of damages caused by the Cyclone	80,000
Completion of the new Opium Godown at Calcutta	15,000
Additional grants to Bombay for the completion of works in progress	100,000
Additional grant for works charged on the Rampart Removal Fund	27,227
The cost of stores from England is now estimated to be in excess of the original Estimate by	46,890
On the other hand, there is a saving under the heads of Railway supervision and cost of land of	6,700
And Railway loss by exchange the last of which arises from diminished Capital expenditure and increased Traffic receipts.	77,874

Compared with the actual expenditure of 1863-64, the increase in the Public Works charges is £310,294.

"Salaries and Expenses of Public Departments," "Law and Justice," and "Police," show an aggregate saving of £74,766.

The increase of £24,605 under "Education, Science, and Art" chiefly arises at Bombay. Compared with the actual expenditure of 1863-64, there is an increase on the total expenditure for education of £143,924.

The increase of £165,966 under "Superannuation and Retired Allowances and Gratuities for charitable and other purposes," in the Regular Estimate of 1864-65, arises from the omission in the Bombay Budget Estimate of the donations to the Service Funds for the year 1863-64.

The increase of £88,031 under "Miscellaneous and Civil Contingencies" is caused by expenditure arising out of the late calamity at Masulipatam, increased charges on remittance of treasure, loss on the withdrawal from circulation of clipped coin in the Punjab, and loss on the sale to the Currency Department of a portion of the Government Promissory Notes purchased out of the surplus Cash Balances in 1863. The interest saved by the purchase of this portion of the securities was larger than the apparent loss of capital by £6,420. Compared with the actual expenditure of 1863-64, there is a diminished charge of £42,930.

The saving of £83,229 in "Interest" arises from too small a deduction having been made in respect of unclaimed dividends.

"Guaranteed interest on Railway Capital, less net Traffic Receipts," shows a saving of £234,500, arising from an increase of £246,583 in the net Traffic Receipts of the current year beyond the sum assumed in the Budget Estimate. Compared with the actual expenditure of 1863-64, the saving is £280,867. Considering the great extent of Railway which has lately been opened, and the rapid growth of the traffic, there is reason to believe that this charge reached its maximum last year, and that it will henceforth steadily diminish. There is a further considerable reduction in the Budget Estimate.

According to the Regular Estimate, the net increase of Expenditure compared with the Budget Estimate amounts to £1,287,667. Somewhat less than half of this excess is additional Military expenditure caused by the increase of prices, the Bhootan War, and improvements of various kinds which have been made in favor of Officers and men, and the remainder may be said to have been invested in Opium and Public Works.

The Budget Estimate for 1864-65 assumed a surplus of Income over Expenditure of £823,288. According to the Regular Estimate, there will be a deficit of £344,143, being a difference against the Budget Estimate of £1,167,431, which is composed, as already explained, of—

Increase of Revenues and Receipts <i>better</i>	£120,236
Increase of Expenditure ... <i>worse</i>	£1,287,667
Difference ... <i>worse</i>	£1,167,431

According to the Estimate of Cash Balances attached to the Budget Estimate of 1864-65, the

amount in the Indian Treasuries on the 30th of April 1865 should have been £13,819,697. According to the corresponding Statement attached to the Regular Estimate, it will be £10,979,859, or £2,839,838 less. This large difference arises from the following causes:—

1st.—From the Cash Balance at the commencement of the financial year 1864-65 having been taken on 22nd March 1865, £1,901,822 below the amount at which it had been estimated on the 7th April 1864. Of this difference of £1,901,822, only £87,784 was caused by variations in the Revenues and Charges.

2nd.—From variations between the Receipts and Disbursements in the cash transactions of the Indian Treasuries, as stated on the 7th April 1864, and on the 22nd March 1865, viz.:—

Receipts increased from £60,264,097	£
to £61,070,842, increase	806,745
Disbursements increased from	
£60,978,234 to £62,722,995, increase	1,744,761
Difference	£ 938,016

£1,901,822 + £938,016 = £2,839,838.

The only investments which have been made out of the Cash Balances in 1864-65 are £174,000 for the Government share of the increased capital of the Banks of Bengal and Bombay, and £80,000 for paying off Treasury Notes belonging to the Suitors' funds of the Recorder's Courts in the Straits Settlements. On the other hand, the balances have been strengthened by the transfer to the Currency Department of a portion of the Government Securities which were purchased in the beginning of 1863 by the disbursement of a million Sterling out of the Cash Balances, when they amounted to upwards of £19,000,000. The amount so obtained at the date the Regular Estimate was closed was £535,000, and the proceeds of the remainder, £405,660, will be paid into the Treasury in 1864-65. This increases the balance on the 30th April to that extent. As the interest is credited to the Government and the remaining deposits are more than sufficient to meet every possible demand of the Currency Department, this is practically a permanent loan without interest.

The revision of the Cash Balances alluded to in my last Financial Statement has been completed, and it has become apparent that, by properly limiting the sums to be retained in the District Treasuries, the public expenditure may be carried on with a smaller aggregate balance than has heretofore been considered necessary. This result is due in a great degree to the progress of Railways, and as Gold and Paper take the place of Silver in the Currency, it will be more fully attained. Besides diminishing the stock of specie in circulation and depriving the public of the use of a portion of its assets, high cash balances have a tendency to relax the motives to economy on the part of public servants, and to encourage others to depend upon the Government for assistance when they ought to help themselves. The English practice of confining the cash balances to what is really necessary to work the expenditure, and, if more money is wanted, of raising it by taxation or loan, is preferable to the old Indian practice, copied from the Native States, of keeping indefinite hoards under the name of cash balances.

I shall now proceed to the Estimate of the expenditure for 1865-66.

The reduction of £44,680 under "Allowances, Refunds, and Drawbacks" is chiefly due to the expiration of the Income Tax, the refunds connected with which are always large.

The expenditure under "Land Revenue, Forest, and Abkaree" has been constantly on the increase since 1861-62, when it amounted only to £2,030,489. Last year a Circular was issued calling attention to the necessity for keeping this expenditure under strict control, but there is, nevertheless, a further increase of £129,290 compared with the Budget Estimate for 1864-65. This is caused by the growth of the temporary Establishments required for the active prosecution of the Land Revenue Settlement, and by the increased allowances consequent upon the rise of wages and prices. There has also been a further increase of expenditure for the organization of the Forest Establishments.

The increase of £15,907 under "Customs" is caused, as already explained, by the revision of the Establishments at Calcutta and Bombay.

Under "Salt" there is an increased expenditure of £42,555 compared with 1863-64, and of £16,823 compared with the Budget Estimate, while there is a decrease of £14,120 compared with the Regular Estimate of 1864-65. It will be remembered that in the Regular Estimate for the current year, some extraordinary expenditure was provided for under this head which is not likely to recur.

The large reduction in the Opium expenditure, amounting to £351,693 compared with 1863-64, and £753,040 compared with the Regular Estimate of 1864-65, is caused by a diminution both in the quantity of Opium to be provided, and in the rate of payment for it, which will be more fully explained under Revenue.

The decrease of £28,702 under "Mint" compared with 1863-64, and of £102,685 compared with the Budget Estimate of 1864-65, is caused by the more correct mode of exhibiting the Copper received for coinage from England, which has been explained in connection with the Regular Estimate.

Under "Post Office" the decrease of £71,181 compared with 1863-64, and of £61,005 as compared with the Budget Estimate of 1864-65, is caused by the abolition of the Bullock Train. The increase of £15,180 compared with the Regular Estimate arises partly from numerous revisions of Establishment to improve the efficiency of the Post Office service, and partly from the necessity which has arisen for increasing rates of pay and contract allowances owing to dearness of provisions. The Post Office Establishments were, from their nature, more immediately affected by these changes, and the re-adjustment has been made with a careful attention to economy.

The increase of £56,150 under "Electric Telegraph" is caused by the additional expenditure connected with the Indo-European line.

Under "Allowances and Assignments under Treaties and Engagements," the reduction of £38,435 compared with 1863-64, and of £21,232 compared with the Budget Estimate of 1864-65, chiefly arises from the lapse of the pension of £15,000 a year received by the late Nawab of

Tonk, and from commutations and lapses of pensions in Tanjore and the Carnatic.

Under "Allowances to District and Village Officers," there is a reduction of £41,229 compared with 1863-64, and of £44,821 compared with the Budget Estimate of 1864-65, arising from the commutation of allowances in Bombay, and the separate provision which has been made by legislation for Village Officers at Madras.

There is an increase under "Miscellaneous" of £72,634 compared with 1863-64 and of £53,666 compared with the Budget Estimate of 1864-65, arising chiefly from the re-organization of the District Post Establishments and their transfer to this head from "Land Revenue, Forest, and Abkaree." Land purchased for revenue buildings has also been ordered to be charged under this head.

I stated that there was an increase of Military expenditure in the Regular Estimate over the Budget Estimate of 1864-65 of £674,571. In the Budget Estimate of 1865-66 there is a further increase of £426,800, making the increase upon the Budget of last year £1,101,371. The increase compared with the actual expenditure of 1863-64 is £1,057,491. The greater part of the expense of the Bhootan War is included under the several heads of the ordinary grant, and another £100,000 has been added for extraordinary.

Since the beginning of last year, the following reductions of Military Force have been made:—

The East India Regiment.

Four Regiments of Madras Native Infantry.

Two Regiments of British Infantry transferred to the Home Establishment.

Reductions of Artillery equal to seven European and three Native Batteries.

Five Troops of the Mahratta Horse.

At any previous time, such a reduction of Military Force as this would have had a sensible effect in decreasing the expenditure of the Army, but such has been the increase of prices and wages, that the entire result has disappeared in the great increase which has taken place in the cost of the remainder of the Force. A comparative statement of the Military Budget Estimates for 1864-65 and 1865-66 will be found in the Appendix, together with an explanation of the causes of increase. These are substantially the same as those contained in my remarks on the Regular Estimate.

As the expenditure of the Indian Army defrayed in England for 1865-66 is estimated at £2,883,872, the total cost of the Army in the same year will be £16,638,432. The incidental receipts are estimated at £850,000, and the net cost will, therefore, be £15,788,432.

The estimate for the cost of the British Army for 1864-65 was £14,844,888; the estimated incidental receipts, £1,324,442; and the net cost, £13,520,446.

The settlement of the grant for Public Works has engaged the anxious attention of the Government. Excluding the State expenditure for guaranteed enterprise, the grants for Public Works since 1859-60 have amounted to about £27,012,000. To this has to be added £1,046,016 from the twenty per cent. appropriated from the Income

Tax in aid of Local Funds, and the additional sums annually expended from the independent income of those Funds, which may be estimated at £760,000 a year. The total amount transferred from circulating to fixed capital in these six years, and invested in administrative buildings, roads, irrigation, and other works intended to promote the productiveness and good government of the country, cannot therefore, be much less than £33,000,000.

Of these £33,000,000, about £11,907,995 has been expended in the two years 1863-64 and 1864-65, i. e.,

	£
Original and additional grants from public revenue	9,175,000
From Local Funds	2,135,615
From the one per cent. appropriated from the Income Tax in aid of Local Funds	597,380
Total	£11,907,995

The whole amount which has been appropriated in aid of Local Works from the Income Tax during the five years of its incidence is £1,500,000, or at the rate of £300,000 a year. This will now cease, and Local Funds will have to meet the demands upon them without further assistance from the public revenue.

The Civil expenditure for Public Works for 1865-66 has been fixed as follows on the basis of the original appropriation of last year, excluding the extra grants made in the course of the year:—

	£
Civil Buildings	650,000
Works of Public Improvement	2,000,000
Establishments	800,000
Total	£3,450,000

Divided among all the Local Governments and Administrations, this sum will barely suffice, at the present prices of labor and materials, to provide for the most urgent wants of this great Continent. The proportion available for works of irrigation may be estimated, at the outside, at £500,000, but half of this is required for the maintenance of the existing works in every part of British India upon which the due realization of the Land Revenue depends. The annual sum remaining available for new works of irrigation is, therefore, only £250,000, which is not sufficient even to complete, within a reasonable period, the great works which have been already commenced.

This grant has been carefully allotted among the different Local Governments, and is to be regarded as final. The practice of making additional grants in the course of the year is to be discontinued, except under circumstances of a really extraordinary nature; and all urgent wants not provided for in the Budget Estimate will, therefore, have to be met by re-appropriation from other works which can be postponed. The sums assigned for Civil Buildings, Works of Public Improvement, and Establishments, are liable to variation at the discretion of the Local Governments, provided the total amount allotted to each Government is not exceeded.

The paramount necessity of providing the Barracks required for the health of the European Troops and the works of defence upon which the public security in some degree depends, has long been admitted, but the preliminary arrangements have only lately been completed. The total outlay will, probably, not be much less than £10,000,000, including the cost of Establishments; and the work is obviously one which ought to be carried on as fast as the requisite preparations can be made. The expenditure on this account for 1865-66 is estimated at £1,000,000, after which it will proceed at an increased rate until the object has been accomplished.

The other sums required for the service of the year 1865-66 under the head of Public Works, are:—

	£
For the ordinary repairs of military buildings	250,000
Public Works at Bombay charged on the proceeds of the sales of land at that place	700,000
Twenty per cent. appropriated from the Income Tax	110,000
Railway supervision and cost of land	207,425
Loss by Railway exchange	171,215

The total amount required under every head of Public Works for 1865-66 is, therefore, £5,888,640, which is £529,910 more than the Budget for 1864-65, and £202,823 more than the Regular Estimate. The increase is caused by the addition of £400,000 for new Military Works, including the due proportion of Establishments, of £495,670 for Public Works at Bombay charged on the local sales of land, of £70,000 for Civil Buildings, and £10,000 for Establishments. On the other hand, Railway supervision is less by £102,075, the sum appropriated from the Income Tax, by £140,000, loss by Railway exchange, by £85,685, and Works of Public Improvement, by £118,000.

Whatever may be the general objections to providing for any portion of the public expenditure by means of loans, it is evident that the large sums which will be required for some years to come for Military Works cannot be furnished from the revenue of the year, in addition to all the other demands upon it, without an increase of taxation, which would interfere with the prosperity of the country, and that it would not, therefore, be right to impose on the existing generation the entire charge for works which are intended for the public service for all time to come. This principle has been acted upon in the parallel case of the Dock-yard fortifications in England. The argument applies with increased force to new works for irrigation, which, properly managed, include their own sinking fund; and in reference to these it has been determined by Her Majesty's Government that "when the surplus revenues and available balances prove insufficient to supply the requirements of the country, funds by means of loans shall be raised." It will be proposed to the Secretary of State that relief should be afforded to the revenue of 1865-66 to the extent of £1,200,000, which will be raised by loan in England, and the drafts upon India will be *pro tanto* diminished. The portion of the grant for public works to be

provided for from the revenue of the year 1865-66 will, therefore, be £4,688,640, which will be £670,090 less than the Budget Estimate, and £997,177 less than the Regular Estimate of 1864-65.

"Salaries and Expenses of Public Departments" show an increase of £74,109 compared with 1863-64, and of £14,295 compared with the Budget Estimate of 1864-65. The chief causes of increase are the creation of seven new Currency Circles, the revival of the Office of Financial Commissioner in Oudh, the appointment of a new Deputy Auditor and Accountant General for British Burmah, the additional cost incurred on the revision of the Secretariats in the Military and Public Works Departments, and the increased charges for the Legislative Members of Council.

Under "Law and Justice" there is an increase of £379,424 compared with 1863-64, and of £145,749 compared with the Budget Estimate of 1864-65. Of this large increase, £140,740 arises from the increased cost of clothing and provisioning prisoners in Jails and the additions which have been made to the salaries of the Establishments. The difference is due to the new establishments employed under the recent Act for the Registration of Assurances.

There is an increase under "Police" of £142,108 compared with 1863-64, and of £95,350 compared with the Regular Estimate of 1864-65, of which £50,000 occurs in Bengal, £40,000 in Madras, £16,000 in the Berars, and £7,000 in the Central Provinces, while there is a decrease of £5,700 on account of the abolition of the Office of Inspector General of Police.

The grant for Education is £622,210, which is £180,354 more than the Actual Expenditure of 1863-64, and £61,035 more than the Budget Estimate of 1864-65. It will be seen from the progressive increase of this grant from £342,593 in 1861-62 to £622,210 in 1865-66, that the means of promoting national education have not been stinted. The public grants for this purpose are also largely supplemented by local funds derived from School fees and subscriptions, and in some Provinces from percentages on the Land Revenue. I cannot help rejoicing when I contrast this liberal support of education with the single annual lakh of Rupees, or £10,000, which it was once my privilege to administer in concert with Lord Macaulay, Sir Edward Ryan, and other early friends of Native Education.

The Estimate for "Superannuation and Retired Allowances" is £119,752 more than the Actual Expenditure of 1863-64, and £150,760 less than the Regular Estimate of 1864-65. These variations mainly arise from the assimilation of the mode of adjusting the Service Donations to that in use as regards the other portions of the debt. While the charge on this account for 1863-64 was carried forward to 1864-65, the arrears, which amounted to nearly an equal sum, were shown against the revenue of 1863-64. The larger sum in the Regular Estimate of 1864-65 arises from the fact that the amount transferred included the triennial adjustment. The Estimate for 1865-66 includes the normal charge on this account.

Under "Miscellaneous and Civil Contingencies," there is a decrease, compared with 1863-64, of £139,850, which is caused by the accounts of

1863-64 having included £75,000 for the investment made in favor of Madhao Rao, by a diminution in the expenditure for the Governor General's tour, and loss by exchange. The reduction of £96,920 compared with the Regular Estimate for 1864-65 chiefly arises from the latter having been swollen by the expenditure caused by the calamity at Masulipatam.

There is an increased charge under "Interest" of £108,570 compared with 1863-64, and of £71,320 compared with the Regular Estimate of 1864-65. This is the result of a calculation embracing a great variety of items. The chief causes of increase are larger balances of the Service and other Funds, and the charge for Interest on the Promissory Notes transferred to the Currency Department.

The "net expenditure in England" amounts to £5,483,390, which is £705,760 more than 1863-64, £553,466 more than the Budget Estimate of 1864-65, and £593,354 more than the Regular Estimate of the same year. This large increase of expenditure is caused by a new charge of £750,000 for the construction of vessels for the transport of Troops to India.

"Guaranteed Interest on Railway Capital, less net Traffic Receipts," is estimated £1,234,000 against £1,388,416 in 1864-65, or £154,416 less. The guaranteed interest payable in England has increased by only £154,000, while the net traffic receipts in India are expected to increase by £276,333.

The total estimated expenditure for 1865-66 is £47,186,930, which shows the following increases:—

Compared with the actual expenditure of 1863-64	£2,652,245
Ditto with the Budget Estimate of 1864-65	£1,846,348
Ditto with the Regular Estimate	£558,681

I will now make such remarks as may be necessary on the estimate of the revenue of 1865-66.

It is proposed to take the estimate of "Land Revenue" at £20,208,190. This is £95,233 less than was actually received in 1863-64, which included £280,000 from the sale of Khas Mehals in Bengal against an estimated receipt of £80,000 in 1865-66. On the other hand, it is £113,390 more than the estimated receipts of 1864-65; but these last were diminished by the inundation at Madras and the partial failure of the rains in the North-West Provinces.

The estimated receipts from "Forest" are £383,000, being £78,557 more than the receipts in 1863-64. This is a smaller increase than may be expected from the arrangements which have been made for the more perfect organization of the Forest Department.

"Abkaree" is estimated at £2,335,320, which is only £62,370 more than is expected to be received in the current year. The rate of increase in previous years has been much larger.

Under "Assessed Taxes" the estimate is taken for the last quarter of the Income Tax, which expires by law on the 31st of July next. The sum expected to be received is £551,140, which includes a considerable amount of arrears.

The estimate for the "Customs" Revenue shows a decrease of £192,781 compared with 1863-64, and of £64,190 compared with the Regular Estimate of 1864-65. This allows for a loss of £40,000 in consequence of the reduction of the duty upon Saltpetre from two Rupees to one Rupee a maund, and assumes the continuance of the depressed state of the Import trade. It may be hoped that the result will not justify this expectation.

The "Salt" Revenue is estimated at £5,782,880, which is £747,184 more than the receipts of 1863-64, and £158,630 more than the amount expected to be received in the current year. This estimate is fully justified by the previous growth of this branch of revenue, by the additional facilities for the conveyance of Salt into the interior, by the improved preventive arrangements in several Provinces, and by an estimated increase of £70,000 expected to be realized by an additional duty of four annas a maund in the Bombay Presidency.

In estimating the "Opium" Revenue for the current year, the point of immediate importance is the quantity of Opium likely to be brought to sale at Calcutta. This is expected to be 59,513 chests, i. e., two-thirds of the last crop, which amounted to 64,269 chests, and one-third of the crop of the current year, which is estimated at 50,000 chests.

But the means which have been taken to regulate the future production of Opium in Bengal must not be left out of sight. It has been determined that the price to be paid to the Ryots shall be reduced from Rs. 5 to Rs. 4-8 a seer; that the cultivation in the Benares Agency shall be diminished until the average yield bears the same proportion to that of the Patna Agency as it bore in 1859-60, when the selling prices of the two kinds of Opium were nearly equal; and that 45,000 chests shall be the standard provision from the two Agencies in future years. Taken in connection with the constantly increasing demand in China, and the check which has been given to the growth of Native Opium there, by the increased importations of the superior Indian produce, these arrangements to limit the quantity in Bengal cannot fail to exercise a favorable influence upon the sales towards the close of the next financial year, and it may be hoped that in the following years they will secure as near an approach to a maximum net receipt as can be expected from so variable a branch of revenue.

The average price at the last three sales has been Rs. 841 per chest, and after giving due weight to the preceding considerations, it has been determined to take the Estimate for Bengal Opium at Rs. 850 per chest. Adding to this £165,000 for Miscellaneous and Abkaree Revenue, the Estimate for Bengal will amount to £5,223,600.

Malwa Opium has a separate field of consumption in China, and its price is only partially influenced by the price of Bengal Opium. After a full consideration of all the circumstances, it has not been considered advisable to reduce the Pass Duty upon Malwa Opium. The Estimate for 1865-66 has been taken at £2,500,000, which assumes that Passes will be taken out for 41,666 chests.

The entire Opium Estimate will, therefore, be £7,723,600, which is £476,400 less than the last

Budget Estimate, and £209,180 more than the Regular Estimate.

The increase in the Stamp Revenue of 1863-64 over that of 1862-63 is £245,578. The estimated increase in the present year over 1863-64 is £176,924. It is proposed to take the Stamp Revenue for 1865-66 at £2,058,500, which is an estimated increase of £146,360 over the present year.

"Mint," "Post Office," and "Electric Telegraph" are estimated each at a moderate increase over the Regular Estimate of the current year.

The receipts under "Law, Justice, and Police" are estimated at £132,320 more than is expected to be realized in the current year. This increase arises from the anticipated receipts under the new Registration Act, additional contributions from Municipal funds for Police, and from a general increase in the receipts from Judicial Fees.

The Estimate for Public Works Receipts, has been taken at £1,000,000, which is £16,650 less than is expected to be received according to the Regular Estimate of the current year. It is supposed that the increased Water rates in Northern India will yield an additional £50,000. Great uncertainty prevails as to the amount likely to be realized from land sales at Bombay within the year 1865-66. According to the best information that can be obtained, it has been estimated at £498,350, which falls short of the corresponding receipts in the Regular Estimate of 1864-65 by £66,650.

The increase of £150,000 under "Miscellaneous, Military," is the result of the measures which have been taken to dispose of useless Ordnance stores.

The increased receipts under "Interest" arise from a larger sum having been invested in the Currency Department, and from dividends on a larger number of Bank Shares.

The total estimated revenue is £46,488,760, which exceeds the actual receipts of 1863-64 by £1,875,732, the Budget Estimate of 1864-65 by £324,890, and the Regular Estimate of the same year by £204,654. To the sum of £46,488,760, the estimated income of the year, has to be added the £1,200,000, which it has been determined to borrow for Military and Irrigation works in aid of the ways and means of the year, making the total receipts £47,688,760.

As the estimated expenditure is £47,186,930, there will be a surplus of £501,830.

The Estimate of expenditure for next year has been taken on a liberal scale even according to the increased rates of prices and wages; and if the Bhutan War soon comes to a close, there ought, with proper economy, to be a considerable saving in the large army grant.

The Estimate of receipts only assumes the normal increase of the ordinary branches of revenue, whereas something more than this has begun to appear. The vast expenditure of late years upon railways, roads, and other works auxiliary to production has begun to bear fruit, especially in reference to the remarkable increase of bulky exportable produce. Even in a strictly financial view, the guaranteed Railway system is showing decided symptoms of improvement. The Opium revenue has also passed its crisis and may be

more relied upon than heretofore. Every item which could be open to question has been excluded from the Estimate. For instance, in order to simplify and clear the accounts, the Government has determined that the ordinary deposits in the Treasuries shall, after a certain period, be carried to the public credit, subject to their being repaid out of revenue whenever a claim is established to them. Under this head I was entitled to the benefit of large sums which must sooner or later be passed through the Budget Balance Sheet, which is the great Profit and Loss Account of the Empire; but as it might have been objected that, although properly credited to revenue, this action upon the Deposits will not bring a Rupee into the Treasuries which is not already there, the change has been postponed to a time when it will not be open to misconception. Neither has the more substantial resource of the purchase money of the 24-Pergunnahs and Jessore Sundarbans been taken credit for.

It is true that the ways and means of the year are, to the extent of £1,200,000, composed of borrowed money. But this loan has nothing in common with the shifts and expedients of insolvent or embarrassed States. It is the result of a discriminating policy which confines taxation to its just objects, and provides by loan for reproductive works and for works of every kind which are on such a scale as would too severely strain the resources of a single generation. The best employment of money is that which the industrial classes make of their annual savings for their own sake, and it is no real advantage to the community to interfere seriously with this natural process and to cause general harassment and discontent in order to accelerate the execution of Public Works. Even if the condition of the finances were all that could be desired, it would still be expedient to limit taxation to the proper business of Government, and to provide for reproductive works by means of specially appropriated funds.

One item of receipt will not recur. The remaining quarter's Income Tax, including arrears and deducting the charge of collection and the twenty per cent. appropriated to Local Funds, amounts to £421,750. If this were struck out of the Budget of 1865-66, there would still be a small surplus. If things remain the same, there will still be this surplus in 1866-67.

It is proposed to make a moderate addition to the estimated surplus of £501,830 by having recourse to a class of taxes which, when they have been imposed with proper reserve, have always proved a valuable resource of Indian finance.

The old policy of the East India Company was to levy low rates of duty both upon exports and imports. However contrary this practice may have been to some received maxims of political economy, it was suited to the circumstances of the country, for, owing partly to the abundance and richness of the productions of India, and partly to the simple habits of the people, the exports of merchandize have always greatly exceeded the imports, and our Indian exports have in general such a hold upon foreign markets that they can bear some duty without being seriously checked.

This policy has of late years been departed from to a certain extent. Under the financial pressure

caused by the mutiny, the 5 per cent. import duties were raised to 10 per cent., and in some cases to 20 per cent., but they were last year reduced to 7½ per cent., while the year before the duty upon iron was rendered nominal. On the other hand, the duty upon several staples of the export trade was entirely remitted in 1860, with the exception of the duty upon Saltpetre, which was raised to a rate inconsistent with the prosperity of the trade, and it has lately been reduced by one-half.

So far as India possesses the monopoly of the foreign market, or a decided superiority over all other countries taken together, an export duty must be paid by the consumer. So far as exported articles are met by an effective competition in the foreign market, the duty must be paid by the producer. But there never was a time when Indian producers were so well able to bear a moderate charge. While the assessment of the Land Revenue has been diminished, the price of agricultural produce has risen, and persons of every class connected with the cultivation of the land enjoy unusual prosperity. It must also be borne in mind that the heaviest expenditure in public works is for the construction of roads to facilitate the conveyance of exportable commodities to the coast. The Tea and Coffee districts have, besides, to be provided with almost every thing which constitutes the outfit of a civilised administration.

Jute, Wool, Tea, and Coffee were placed on the free list in 1860, previously to which they were subjected to the normal duty of 3 per cent. charged on unenumerated articles. The increase which has taken place in their production, and the high prices which they have commanded for exportation during the last few years, show that any reduction of price which might be caused by a moderate duty would in no way discourage the cultivation. Jute when manufactured into Gunny Bags and other articles is charged an export duty of 3 per cent., and the manufacture of the country is, thereby, placed at a disadvantage in any market where it may be brought into competition with similar articles manufactured in England.

The annual value of the exports of these four articles has increased since 1860-61 as follows:—

	1860-61.	1861-62.	1862-63.	1863-64.
	£	£	£	£
Jute ...	409,283	571,736	811,108	1,598,084
Wool ...	473,544	862,672	1,477,214	1,511,644
Tea ...	101,693	131,314	179,613	222,035
Coffee ...	249,095	402,994	426,489	518,768

It is proposed to extend to these articles the normal export duty of three per cent., which may be expected to yield £130,000 a year.

Hides, Sugar, and Silk have not increased in the same proportion, but they would, nevertheless, bear a low rate of duty without any discouragement to the trade. It is proposed to subject them to a duty of two per cent., which will yield about £60,000 a year.

The export duty on grain was increased in 1860 from half an anna to two annas a maund. Much the most important article under this head is Rice. Although India has no monopoly of its production, she provides the largest portion of the supply for foreign markets; and the climate and soil of large tracts are so congenial to its cultivation, that it is grown under great advantages, and would easily bear another anna a maund. The value of the exports has increased in each of the last five years as follows:—

	£
1859-60	2,265,656
1860-61	2,938,876
1861-62	3,285,894
1862-63	3,320,923
1863-64	3,936,709

It is proposed to raise the export duty on rice and other grains from two annas to three annas a maund, which is expected to give an additional £140,000.

The total estimated increase of revenue from these duties is £330,000, whereby the estimated surplus will be raised to £831,830.

On the other hand, it is proposed to reduce the import duty upon hops from $7\frac{1}{2}$ to one per cent. This is necessary in order to place the produce of the Indian Breweries on an equal footing with the beer imported from England, which is liable only to the nominal duty of one anna a gallon. The loss of revenue will be about £1,000.

The Income Tax, which, to use Mr. Wilson's words, "was passed for a limited period with a view to the present emergency," will expire on the day appointed by law—the 31st of July next. As a potent but imperfect fiscal machine, it should be regarded as the great financial reserve of the country; and it will now be laid on the shelf complete in all its gear, ready to be reimposed in case of any new emergency.

The Income Tax was passed for five years from July 31st 1860 at the rate of two per cent. upon Incomes between Rs. 200 and Rs. 500 a year, and of four per cent. upon Incomes above Rs. 500; and, of this last mentioned four per cent., one per cent. was appropriated to Roads, Canals, or other reproductive works. The assessment was to be an annual one; but, before the first year had expired, an Act was passed, authorizing the Governor General in Council to continue the original assessments for another year. In May 1862 this power was extended to the remaining three years, and the limit of exemption was raised from Rs. 200 to Rs. 500. From the 31st of July 1863 the rate of four per cent. was reduced to three. The original assessment has become obsolete in every sense. Persons deriving their income from salaries and the Funds pay the full three per cent., but the assessments made five years ago, which were originally insufficient and unequal, have become much more so by the great increase of wealth and by the change in the circumstances of individuals during the interval.

The gross amount that will be realized from the Income Tax in five years will be £8,008,127, and the cost of the Establishments employed in collecting it will be £366,160, or, at the average rate of about $4\frac{3}{4}$ per cent., leaving £7,641,967 as the net proceeds of the Tax. The sum appropriated to local works will be £1,500,000, so that

the benefit to the general Revenue from the Income Tax will be about £6,141,967. Debt to a much larger amount than this has been paid off at home and in India within the last three years. I have followed the usual course in taking the cost of the Tax at the expense of the machinery actually employed in collecting it; but in order to estimate the real cost, the work it caused to the different Governments, Secretariats, Army, and Police, the printing, translating, telegraphing, stationery, and all the other incidents of the tax, should be included.

Holding the position I do, it will, of course, be expected that I should express my opinion on our present financial position.

India is prospering beyond all former precedent. The Ryot has become emancipated from the money lender, and has something to spare for the indulgence of his tastes and the improvement of his cultivation. Wages are rising throughout India, while, at some of the Ports, they have attained almost to European rates. Mercantile gains, especially in the west of India, have been as large as they are liberally spent in charitable, ornamental, and reproductive works. The great and decisive change has also begun to appear that the Natives, from the Parsee and Marwaree Millionaires down to the Ryots and small Traders, bring forward their savings for investment instead of hoarding them. India has entered upon a course of industrial activity, and there has been for some time a remarkable absence even of the disquieting rumors which used to fill up the intervals of actual hostilities.

We stand at the commencement of an economical and social revolution which is pregnant with the most important results. In its bearing upon the people, the benefit seems to be almost without qualification; but in reference to the Government, the matter has a double aspect. The increase of prices has passed like a wave over the whole of India, and has penetrated its remotest recesses. It has become necessary to give compensation to the Military Force in most parts of India, extending in many cases even to fire-wood for the men and forage for the horses. The compensation for a single Native Cavalry Regiment at Dharwar was at the rate of upwards of £10,000 a year until the Regiment was ordered to be disbanded. A rateable increase of pay is given for the same reason to the Police, Postal, and ordinary Civil Subordinate Establishments in the Bombay Presidency and Central India, and, as regards most of them, also in the Madras Presidency. In spite of every precaution, this influence is already sensibly felt throughout the great Bengal Presidency in raising the standard of the public expenditure. In every part of India much higher prices have to be paid for Commissariat supplies, and labor and materials of every description for every Civil and Military Department.

The purchasing power of money has diminished. It is the same thing as if the public revenue had been positively reduced by a considerable amount. If the balance were restored by a *pro rata* increase on the whole of the existing taxation, there would be no real addition to the burdens of the people, because their means have increased in a still greater proportion. The settlement of the Land Tax, however, which is nearly half the ordinary revenue, is proceeding for the most part at the

reduced rates based upon former low prices. The profits have been left to the Agriculturist, and the fruits are reaped by the Government only in a steadily rising value of land and in a general increase of prosperity and contentment.

Concurrently with this, a demand which may be controlled, but cannot and ought not to be resisted, has arisen for improved administration. In Police, in Jails, in the judicial administration, in all that relates to the accommodation and treatment of the soldier, public feeling is no longer content with the former less perfect arrangements. But nothing is dearer than good government. Every plan of improvement resolves itself into a question of additional expenditure. A striking instance of the combined effect of increased prices and administrative reform will be seen in the comparative Statement, in the Appendix, of the cost of Jails in 1863-64 and 1865-66.

Nevertheless, I am of opinion that, provided proper economy is exercised, the existing sources of revenue, with only such ordinary improvements as time and circumstances require, will suffice. One of the greatest objections to the Income Tax is, that it is felt to be such a powerful instrument of taxation as to induce a relaxation of the habit of economy. The disposition will always be to spend up to an Income Tax. In order to prevent, I will not say profuseness, but a feeling of indifference about the spending of public money, there must be a sense that we are dealing with limited funds. The resources still to be derived from a judicious frugality are extremely important.* Although the crop was reaped in 1860-61, valuable gleanings have since been obtained in the shape of further reductions in the Military Force, in the Marine Establishments, and in those formerly connected with the abolished Government manufacture of Salt in Bengal; and arrangements are in progress for transferring the cost of the Police of Towns to the inhabitants.

The social revolution in progress also has its own compensations. The prosperity, for the wants of which we have to provide, is itself highly conducive to the increase of the revenue. India cannot be fully occupied with the arts of peace and the arts of war at the same time. Populations which were formerly of a highly warlike character have become entirely industrial. In the south of India, the people have lost the habit of wearing or using arms, and this change is gradually extending to our provinces in the north. The Railways have also greatly increased the efficacy of any given Military Force, and the native troops are so sensible of this, that they say in the Punjab that they might now mount guard at Calcutta. The increased Military expenditure ought, therefore, to be met by a reduction of numbers.

Again, the Subordinate Civil Establishments are unnecessarily large, because, having been cheap, there was a feeling of indifference about their number, and having been ill-paid, they were inferior in point of qualification, and lax in their application to work. The Government of India has not refused to increase the salaries of the Subordinate Civil Establishments. It is only de-

sired that the increase should be made after a careful scrutiny, both of the number really wanted, and of the work which really has to be performed, for one of the consequences of the former lax system is that there is a great deal of surplus waste work. The admirable manner in which reduction and re-arrangement have been combined with increase of salaries in the Post Office Department in every part of India, shows that if proper precautions are taken, the revision of the Public Establishments with reference to the increased cost of living may be made without any serious increase of expense. The same process has been successfully applied to all the Revenue Establishments of the Madras Presidency. Lastly, although we are working up to an advanced European standard, we should remember that, with immense capabilities, India is still in a backward, undeveloped state, and we ought not to attempt to arrive *per saltum* at a complete administrative machinery, in advance, both of our resources, and of the condition of sound progress.

If additional revenue should hereafter be required, a sure, and, in my opinion, perfectly unobjectionable resource will be found in a moderate increase of the Salt Tax. The body of the people of India are the countless Peasant Proprietors, and the much smaller number of persons who live by wages in town and country. The annual incidence of the highest existing rate of duty upon Salt, calculated upon the consumption of a single individual, is less than one shilling, and the profits of agriculture and the rates of wages have so increased of late, that this bears an inappreciable proportion to the income even of the most ordinary laborer. Owing to the greatly increased importations from Liverpool, the average price of Salt in Bengal, exclusive of duty, is not half what it was, while in the south and west of India the price has been greatly diminished by the reduction in the cost of carriage, arising from the opening of the Railroads to various points in the interior. Half the revenue of England is levied upon consumable articles which from habit have become necessities, but taxes of this class are represented in India only by the Salt Tax and the excise upon Spirits and Drugs, amounting to about one-seventh of the revenue. No Tax can be collected more cheaply or with less annoyance to the people than the Salt Tax. In India, where the interference of subordinate fiscal Agents is more than usually disliked, this is one of the greatest recommendations of a tax. An addition even of two annas a maund, or 3d. on 80 lbs. of Salt, would yield £250,000, and it would be collected net without any addition to the existing machinery.

The only really productive Taxes are those which are paid by the body of the people. Clearly they ought to pay their fair share, for they profit even more than the rich by the advantages of good government. A rich man can generally protect himself, but if the interests of the poor man are not cared for by the State, he is ground down by the rich and is rarely able to rise in the social scale. The increased prices and wages from which the bulk of the payers of this Tax are enjoying such great advantages, are distinctly the result of strong and just government, and they are also the main cause of the increased expenditure for which we have to provide.

The first sales by auction of the remaining stock of Government Salt in Bengal will take

* NOTE.—A large sum might be saved in Government printing alone, which in almost every part of India is carried to an excess, wasteful alike of money, mind, and time. At home, with much less necessity for reform, the public printing has been brought under strict regulation.

place this year. Owing to the low rates at which Liverpool Salt has been delivered, the sales of Government Salt, actual and estimated, in the current year, at the fixed rates, are only 9,34,252 maunds compared with 11,78,335 maunds in 1863-64, and 19,13,978 maunds in 1862-63, besides which 2,14,681 maunds have been destroyed by the Cyclone. After deducting 55,102 tons to be sold by auction, and making a reasonable allowance for further sales at the fixed rate, the stock remaining on hand at the end of 1865-66 may be estimated at 151,893 tons. Meanwhile, the area of consumption of Liverpool Salt in the interior is continually extending, and it may be expected that, after the opening of the Railway Bridge at Allahabad, it will compete with the Rajputana Salt on its own ground at Agra and Delhi.

This year has been distinguished for a remarkable development of the principles of municipal administration and private enterprise. It has become apparent that the demands of India for the improvements which belong to a higher state of civilization cannot be fully met either by the revenue received by the Government, or by the agency at its disposal. Finding that the Government was not prepared to advance money for the improvement of Calcutta, the Municipality advertised for a loan and obtained the requisite amount on moderate terms. In like manner, the Government expressed its opinion that the formation of an auxiliary Port on the River Mutla belonged rather to private than to public enterprise, and a Company was formed with a capital of £1,200,000 for the construction of the necessary works. The extensive plans of reclamation in progress in connection with Bombay and Calcutta, and the numerous Companies for Tea and Coffee cultivation, Coal Mines, conveyance of passengers and goods by land and water, and other objects, show that the future growth of India will not be limited by the standard of the means and action of the Government. The small beginnings of many of these undertakings were fostered by the Government, but as private enterprise has advanced, the Government has receded, and the relative position is annually approximating to the state of things in England.

In the Punjab, the North-West and Central Provinces, and British Burmah, the towns have, with rare exceptions, been organized into Municipalities which are charged with the payment of the Police, and with every necessary work of conservancy and general improvement. In August last, a Resolution of the Government of India was promulgated, the object of which was to extend this system to the rest of India, with the understanding that the inhabitants should raise the necessary funds in whatever manner they might think proper, subject to the approval of the Local Governments. Such institutions are necessarily of slow growth, but the principle is fully admitted that the Town populations are chargeable with their local expenditure, including the cost of their Police, and the public revenue will be relieved and habits of self-government will be formed as effect is given to it. A germ everywhere exists for the extension of the municipal system to the country districts, and there is urgent need for its more perfect development there. Every road that is made only establishes the necessity for making others in connection with it, and

the charge for repairs alone is becoming an excessive burden on the Central Exchequer.

An abstract will be found in the Appendix of the actual expenditure of Local Funds in 1863-64, together with Estimates for 1864-65 and 1865-66. It will be seen that there is an increase in the receipts from £1,994,296 in 1864-65 to £2,153,649 in 1865-66, and an increase in the expenditure from £2,038,251 to £2,327,017, while there is an estimated decrease in the balance on hand from £1,774,679 to £1,601,311.

Besides the temporary grant of one per cent. from the Income Tax, and the permanent transfers from general to local revenue mentioned in my former Statements, further steps have since been taken in the same direction. The revenue derived from Fisheries in the Madras Presidency, amounting to Rs. 60,000 a year, (excepting, of course, the Pearl and Chank Fisheries,) has been transferred to Local Funds as had previously been done in Bengal. Ten per cent. of the proceeds of escheated lands in Malabar has been similarly appropriated. In the Central Provinces, the Land Revenue assessment is so moderate that the Road and Educational cesses have been raised from one to two per cent. each upon the Land Revenue without imposing any undue burden upon the people. Buildings belonging to the Government in Provincial Towns which are not required for Government purposes, are likely to be turned to better account by local administration for objects in which the inhabitants are interested, than if they were under Government management, as belonging to the imperial revenue. The arrangements which had long existed for giving effect to this principle in the Bengal Presidency under the name of "Nuzool" or Escheats, were extended in September last to the Presidencies of Madras and Bombay.

The English Commissioners have completed their investigations into the accounts of the several Departments of the Government to which their attention was directed, and have laid their Reports before the Government.

Many of their recommendations have received the sanction of Government, and others are still under consideration.

Mr. Foster remains in India for a limited period, in order to superintend the introduction of the changes which are to be carried into effect, and considerable progress has already been made. The whole of the recommendations regarding the accounts of Kidderpore Dockyard have been brought into practical operation, and in the Civil and Military Departments extensive changes are being gradually and safely introduced, which will greatly simplify the accounts, add security against fraud by providing a rapid post-audit in substitution of the former system of double audit, and, by diminishing the amount of labor, lead the way to the reduction and ultimate entire removal of the state of arrear from which the public accounts are now suffering.

These changes, when carried into effect, will necessitate an entire re-organisation of the Offices of Account with a view to obtaining a larger amount of efficiency at a less cost. This end must be attained by an improvement of salaries combined with a large reduction of numbers.

The Government Paper Currency has been in a state of healthy progressive increase throughout

the year without any violent fluctuations. New Currency Circles have been established at Allahabad, Nagpore, and Lahore in the Bengal Presidency, at Kurrachee in the Bombay, and at Vizagapatam, Trichinopoly, and Calicut in the Madras Presidency. The Note circulation has risen from £5,350,000 in April 1864 to £7,348,585, while the investment of the deposits of specie has been increased from £3,000,000 to nearly £4,000,000, the maximum amount permitted by law.

Believing that the time had arrived for the adoption of a Gold Currency in India, and that, although the Sovereign would be somewhat undervalued at ten Rupees with reference to the greater part of India, it would, nevertheless, owing to its superior convenience, obtain an increasing circulation at that rate without any possibility of injury to the creditor, the Government of India recommended to the Secretary of State in July last that the Sovereign and Half-Sovereign should be declared legal tender at the respective rates of ten and five Rupees. Upon this, the Secretary of State determined upon the experimental measure of receiving the Sovereign and Half-Sovereign in all the Treasuries of India at those rates, and of paying them out again at the same rates to such persons as might be willing to take them, and also of receiving them in the Currency Offices to an extent not exceeding one-fourth of the total amount of issues represented by Coin and Bullion, as authorized by law. The result of this experiment has been highly interesting and important. The Sovereign has been received in all the Currency Offices of the Bengal Presidency, and in many of the Treasuries, and it is daily coming into increasing use, both for the ordinary transactions of private life, and for the purpose of remittance. Up to the 9th of March, the total receipts at the Bank of Bengal in British and Australian Sovereigns amounted to £370,000; and although payments had likewise been made to a considerable amount, Sovereigns accumulated to an inconvenient extent in the hands of the Bank, and 200,000 were therefore transferred to the Calcutta Currency Office in exchange for Rupees. Further arrivals of Sovereigns were expected from Australia, and it became apparent that, in order that the balances of the Bank and of the Government might not be composed, to an inconvenient extent, of a coin which could not be relied upon as a circulating medium, owing to its not being a legal tender, it was necessary either to go forward to convert the experimental measure of making the Sovereign receivable in the Treasuries and Currency Offices at ten Rupees into the substantive one of making it a legal tender at that rate, or to take the retrograde step of withdrawing the Notification, or modifying it by making the Sovereign receivable at a lower rate. The Government did not hesitate between these alternatives, and it has been again recommended to the Secretary of State that Sovereigns and Half-Sovereigns, according to the British and Australian Standard, coined at any properly authorized Mint in England, Australia, or India, should be made legal tender throughout the British dominions in India at the rate of one Sovereign for ten Rupees.

I stated that the surplus, which was originally £501,830, would, with the additions consequent upon the increased export duties, £330,000, amount to £831,830.

To this must be added £60,000, the anticipated receipts from the Indo-European Line of Telegraph, making a sum of £891,830.

It has been found necessary to comply with a requisition which has just been received from the Government of Bombay for an addition of £17,520 to the expenditure under the head "Law and Justice."

The surplus therefore stands at £874,310.

These recent changes have been noted at the foot of the Statement of the Revenue and Charges. Their effect with reference to the one item of Receipt, (Income Tax), which will not recur, will be to leave a surplus in 1866-67 of £452,560, even assuming that every other item remains unchanged.

The Motion was put and agreed to.

The Hon'ble SIR CHARLES TREVELYAN having applied to His Excellency the President to suspend the Rules for the Conduct of Business,

The President declared the Rules suspended.

The Hon'ble SIR CHARLES TREVELYAN then introduced the Bill and moved that it be taken into consideration.

The Hon'ble MR. COWIE—"I must be allowed to express the high satisfaction with which I have listened to that portion of the Hon'ble gentleman's statement which announced that the income tax would finally cease on the 31st of July.

I believe the opinion has been pretty generally held that the Government were absolutely pledged to remove this tax, but I never understood that pledge in any other sense than coupled with the proviso that the revenue could spare it, and if the Imperial balance sheet, now placed before us, had proved the necessity of its continuance, I for one would cheerfully have submitted to the reimposition of the tax for another twelve-month. But it is far better that it should be removed at once, for it is no exaggeration to say that, financially, it has been a failure to the Government, and morally an evil to the country.

I do not apprehend that those interested in our export trade will take exception to the moderate export duties by which it is proposed in part to make up for the removal of the income tax, though I am of opinion that they would have preferred seeing the amount obtained by a further small addition to the duty on Salt.

The plan of borrowing in England at moderate interest a portion of the money urgently called for for Military and Irrigation Public Works, is, I think, an improvement on the system which took the whole out of the year's income. The public will only be disposed to regret that it was not adopted earlier, for if it had been, we might have seen, not only the income tax, but also these additional duties dispensed with.

I congratulate the Hon'ble gentleman, and I hope that all who hear me will be disposed to join in the congratulation, that at the close of a year which has undoubtedly been one of financial difficulty, and at the close of his public career in India, he has been able to leave behind him a Budget for the coming year of so hopeful and promising a character as that to which we have just listened."

The Hon'ble Mr. BULLEN—"Sir, I add my felicitations to those of my Hon'ble friend opposite, that the state of the finances has been found to be such that it is considered the income tax can safely be dispensed with. Viewed financially, there can be no doubt that the income tax has proved a failure, that is, that it has failed to reach anything like the real income of the country which under its provisions is taxable: for it is absurd to suppose that a gross assessment of little over a million sterling represents, at 3 per cent., the taxable incomes of all India over Rs. 500. The incidence of the tax has indeed notoriously been most unequal, owing to the causes alluded to by the Hon'ble gentleman, and had it been necessary to continue the tax, there must, in justice to those who pay their full 3 per cent., have been fresh assessments. But, Sir, I am heartily glad to find that there is no necessity for the continuance of the tax at all beyond the present income tax year, and that the Government is enabled to carry out the assurances it has on several occasions given, in language more or less precise, that the tax would not be extended beyond the term for which it was originally imposed. Sir, my felicitations would have been more hearty if, in getting rid of the income tax, the Government had not thought it necessary to impose fresh burdens on commerce. Some of the articles on which it is now proposed to levy export duties may be able to bear them without injury to the trade, as, for instance, the article of Jute. The enormous increase which has taken place in the production of this article, proves conclusively that its cultivation must be most remunerative, and therefore, even if the whole duty fell on the producer, the profit on the cultivation would still be so large that the growth would scarcely be discouraged. But in reality, Jute is very much an article by itself; there is no other fibre, applicable to the purposes for which Jute is used, which can be supplied at the same price, and the probability consequently is, that this duty will eventually fall on the consumer, and not on the producer. Rice also is no doubt grown under such advantages of soil and climate on the vast plains of Bengal and Arracan, that it may bear another anna per maund of duty, and still hold its own in the markets of consumption, though, especially on Arracan rice, a duty of three annas per maund is an extremely heavy percentage on its first cost. But there are other articles on which I am sorry to hear that, reversing the legislation of former years, the Government now proposes to levy duties, as, for instance, on Wool and Raw Silk, and Tea, and Coffee. Now, about Wool I do not know much, as it is exported almost exclusively from Bombay, but I believe it is brought down principally from Beloochistan by long tedious land journeys. This is a trade which, for obvious reasons, it appears desirable to encourage, and, exposed as Wool is to such keen competition in the European Markets, with the produce of Australia and the Cape, not to speak of the home growth, I am sorry to see a duty, however small, put upon it. Then as regards Silk: this is an article which is also exposed in Europe to keen competition with the produce of China and Japan, as well as of the European production. The duty in this case must fall on the producer, and when the incidence of the tax is on the producer, export duties are condemned by all sound writers on political economy. Tea and Coffee, again, are young industries in India. They are also of the few industries in India which attract European settlers

and European capital into the interior, and I well recollect hearing the late Mr. Wilson remark that, on this ground if on no other, these were industries which were deserving of every encouragement at the hands of the Government.

Then Sir, as regards Sugar, I confess I am quite at a loss to understand the grounds on which Government proposes to levy an export duty on this article. More than twenty-five years ago, the export duty was taken off, because, even then, Sugar from India weighted with any duty could not withstand the competition of other producing countries. Well, Sir, have circumstances since changed in favour of India? The very contrary is the case, as is well known to every commercial man. Year by year, owing to the increasing production of beet-root Sugar, prices rule lower and lower in the European Markets. Year by year, if we except last year, when there was a spasmodic revival of the exports owing to a short-lived speculation in England (which exports, it may parenthetically be remarked, have resulted in heavy losses), the trade has been growing smaller and smaller, and in fact, instead of increasing her exports, India is actually importing Sugar from Mauritius; and after all, what revenue does the Hon'ble gentleman calculate on from these duties? So far as I was able to follow him, not more than £300,000. Is it worth while, for so small a sum, to sacrifice fundamental principles of sound political economy? If, Sir, it were necessary to fortify the financial position at all, the preferable course I conceive would have been to have made some small additions to the Salt duties. An increase of a thirteenth only of the present duty would have given about £400,000, or more than the amount which will be produced by these export duties, and would, I humbly submit, have been less objectionable in principle. And I am the more surprised that the Hon'ble gentleman did not adopt this alternative, considering the opinion regarding an increase of the Salt duties which he has himself expressed. No doubt the duty on Salt is already very high in proportion to its cost, but the individual consumption is so small that practically the duty is not felt, and when it is considered that it is almost the only tax which the masses of the people pay on articles of consumption, whilst the labouring classes in England pay on their sugar, their tea, their tobacco, and their malt, it seems to be a tax peculiarly adapted to the circumstances of the country.

Sir, there is only one article on which, with reference to duties, I will trouble the Council with any remarks,—it is the article of Saltpetre. Sir, about a month ago, the Executive Government of its own motion, and without reference to this Council, reduced the duty, which was fixed by law at two rupees, to one rupee per maund. Sir, I have myself consistently advocated a reduction of this duty, considering the trade to be in great jeopardy, if the duty was maintained, and therefore I have not a word to say against the reduction itself. My complaint is as to the manner of the reduction. The duty on Saltpetre is a specific duty fixed by the Schedule of Act XXIII of 1864, and the Governor General in Council appears to have no more lawful authority to reduce that duty by an order in Council than to increase the rate of duty on piece-goods or other imports. My object in making these remarks is to elicit some information from the Government as to the remaining rupee of duty which for the present is to be kept on. What I wish to know is, whether we are to understand that this is a

settlement of the question until next April. It is important that this question should, if possible, receive an answer; otherwise the trade, both here and in England, will be kept in a state of suspense. I would much rather that the duty had been taken off altogether; but if it is to be kept on, it is better, even in the interests of the producer in this country, that it should be known that no reduction is to be made until next April; otherwise the market in England will continue depressed by the expectation that at any moment the duty may be taken off, and the merchant here, to guard himself against that contingency, must buy at a larger price than, but for the uncertainty, he would be disposed to pay. I therefore ask for a declaration from the Government, of its intentions regarding this duty.

As regards the course which the Government have followed in proposing to the Secretary of State to borrow in England a portion of the amount which has this year to be provided for public works, I think that course a very proper one, for I have never thought it reasonable that the whole burden of expensive public works, of which future generations, more than the present generation, will reap the benefit, should be borne by revenue.

In conclusion, Sir, I desire to add my congratulations to those of my Hon'ble friend opposite, that the Hon'ble gentleman, on laying down his office, leaves the finances of the country in such a substantially prosperous condition."

His Honour the Lieutenant Governor said that there was no doubt that every one throughout the length and breadth of India would congratulate the Government that the state of the public finances, and the flourishing condition of the revenues, were such as to enable it to dispense with the income tax. His only regret was that the abolition of that tax would deprive Bengal, in common with other Provinces, of a certain proportion allotted for Public Works, and entail the necessity of finding means to meet the consequent deficiency. As to Bengal this would receive early attention from the local legislature. He felt, however, obliged to say that, while he congratulated Sir Charles Trevelyan on his budget, he agreed with the Hon'ble Messrs. Bullen and Cowie in their objections to the imposition of new export duties, and in thinking that, if further taxation were considered necessary at all, a small additional duty might be imposed on Salt throughout India, instead of the proposed increase in this respect being confined to Bombay. He was of course not aware of the considerations which had led the Government to give the preference to increased export duties, or to conclude that the imposition of such duties was necessary to make up the requisite surplus. It appeared to him, however, that no such necessity really existed. The average price which Sir Charles Trevelyan took as likely to be realized from the Opium sales of 1865-66 was Rs. 850 per chest. That was the price ruling at the two last sales. It was a minimum price, and its lowness was solely owing to the very large amount of the drug (62,000 chests) which had been produced in 1863-64. Now, it was well known that the rain which fell in February and March had seriously damaged the present crop of Opium. The extent of cultivation had also been considerably contracted. It was assumed that the outturn would be 50,000 chests. In his opinion, it was likely—nay, it was almost certain—to be less. But, even if the outturn were as large as 50,000 chests, and if the whole of this provision

were brought to sale in 1866, it was quite contrary to past experience to assume that the average selling price during the financial year would not exceed Rs. 850. It was much more likely to be Rs. 1,000, but, even supposing that it would be no more than Rs. 900, which was the lowest reasonable estimate he could form, the difference of Rs. 50 would give more than all that was expected to be raised by the new export duties.

He would therefore suggest to Sir Charles Trevelyan whether, in consideration of the more probable productiveness of the Opium Revenue, the proposal to levy additional export duties might not safely be given up.

The Hon'ble Sir Charles Trevelyan.—“There is one omission in my statement which I take the opportunity of supplying. I mentioned that something of the nature of a settlement of the Opium Revenue had been made. We are mainly indebted for this to His Honour the Lieutenant Governor, who, some weeks ago, applied his mind closely and earnestly to the subject, and recorded a minute which is one of the ablest papers of the kind I have ever read. The result is that the Opium Revenue has been placed on as secure and permanent a footing as it can be.

The appeal which the Lieutenant Governor has made to me in reference to the proposed export duties, has placed me in a very painful dilemma. It is extremely probable that, even without these export duties, there would be a surplus. The growth of the revenue is likely to increase, and I think there will be a stricter control over the expenditure. We shall also be better for the non-recurrence of two large home-items—the cost of the transports and of the new India Office; and there is more of the same sort that I might mention. But the most remarkable feature of Indian finance is its variableness. The results have to be collected from so many Governments and Administrations, in reference to such a variety of departments and subjects, that Indian finance is a series of surprises and disappointments; and the evil is much aggravated by the imperfect nature of the accounts. At home the Chancellor of the Exchequer sees from week to week the progress of the income and expenditure. Here, till I have the annual estimates before me, I cannot say how I stand within a million or a million and a half. When I took charge of this office, I found I was under a pledge inherited from my predecessor to publish quarterly accounts. But the Officers of the Department warned me to take care what I was about; and on further experience, I found that the accounts are so overloaded with what they call “adjustment items” that the “monthlies” are always stultified by the “quarterlies,” while the “quarterlies” are extinguished by the “annuals;” and even the annual statements, which are the basis of the accounts laid before Parliament, are corrected by the “general books,” which are the final accounts, and are in most parts of India four or five years in arrear. The root of the evil is the extraordinary variety of irrelevant matter with which the public accounts are overloaded, connected with private remittances and other practices inherited from the paternal rule of the East India Company. If we had the same means as in England of ascertaining our position, we could work with a much narrower margin. Owing to this state of things, I think that the estimated half a million must be fortified by the additional export duties.

I acknowledge with gratitude the favourable, general view which has been expressed by the President of the Chamber of Commerce. Coming from a gentleman in his position, this is of public importance as well as of private interest to me. He admits that, as regards jute and rice and hides, I am in the right, and that they will bear a moderate export duty. But he entertains doubts as to the expediency of taxing wool, tea, and coffee. The condition of a large continual annual increase is applicable to all these articles. Beginning from 1860-61, the annual increase of the exports of jute has been £409,000, 571,000, 811,000, 1,598,000; of wool, £473,000, 862,000, 1,477,000, 1,511,000; of tea £101,000, 131,000, 180,000, 222,000; and of coffee, £249,000, 403,000, 426,000, 519,000. In the dearth of cotton, the European demand for jute cannot easily be supplied. Owing to the improving circumstances of the European populations, there is an unlimited demand for tea and for coffee, which holds the same place on the Continent as tea does in England. There is a great gulf opened in Europe for the absorption of any amount of Indian produce, and the demand is constantly increasing. My belief is that the three per cent. duty will make no perceptible difference. I was at Madras when the three per cent. duty on coffee was removed. The planters expressed their surprise at the unexpected boon, and said that they would gladly continue to pay the duty if they could have roads made to the coast, for the conveyance of their coffee to Calicut cost them more than the whole freight to England. An export duty on coffee of one shilling per cwt., or from 2 to 2½ per cent., is levied in Ceylon, which is applied to the construction of roads. [The Hon'ble the Lieutenant Governor of Bengal, "hear, hear."] Mr. Bullen gives as a reason for not imposing a duty upon tea and coffee that they are the result of European industry. I cannot too strongly express my sense of the importance of the settlement of Europeans in this country. It gives increased strength and stability to the Government; promotes civilisation; introduces a higher morality; and in course of time will lead to a purer religion. But there is one way in which European colonization ought not to be encouraged, which is by acting partially and unjustly in favour of the colonists. This would not be good even for the Europeans themselves.

The proportion of the new duties which will be paid by Europeans is very small. Jute, which is entirely a Native industry, was exported in 1863-64 to the amount of lbs. 1,600,000, and this year it is much larger. My total estimate of £330,000 from the new export duties is very low. Wool was exported to the value of £1,512,000, and rice to the value of £3,937,009, while tea and coffee together are only £741,000. With what justice could we impose three per cent. upon jute and an additional anna on rice while we exempt tea and coffee? As jute and rice have increased in value, so have tea and coffee. With some discrepancies (for all plantations cannot be equally profitable) the success of tea and coffee planting has been very remarkable. With what face, in the presence of God and man, could we exempt tea and coffee from what we are imposing on much larger and less profitable Native industries? The Hon'ble Mr. Bullen says that the tea and coffee planting ought to be nursed. But it has got quite beyond that stage. I am the only surviving

member in India of the Tea Committee appointed by a Governor General whom few here can remember. It is interesting and encouraging to see what a wide and strong grasp tea-cultivation has got of the great eastern frontier of Bengal. The Committee, at our first meeting, prepared a circular which was sent to all parts of India—not asking whether tea did or could grow—but whether any plants could be found of cognate genus or species which would afford promise of success in growing tea. I shall never forget our astonishment when we heard, in reply from the Commissioner in Assam, General Jenkins, who is still alive, and from Mr. Bruce, who is also alive, that not only did cognate plants grow, but that the tea-tree itself existed, that there were whole forests of it, and almost timber-trees. Dr. Wallich and the scientific members of the Committee were beside themselves: and a deputation of them was sent to Assam to verify the astounding fact, and Mr. Gordon was sent to China to procure skilled labourers. The consequence of this was the Government Gardens, which formed the nucleus of the Assam Company's flourishing establishment. That was the infant stage; and now the industry is in so flourishing a state that large profits are made by the sale of the seeds alone. As to coffee plantations, I have seen those in the South of India; and a more hopeful illustration of British commercial enterprise is nowhere to be found. The planters would, I am persuaded, repudiate being nursed, and still more, being placed in a position of unjust, unequal privilege with reference to their Native fellow-subjects.

In saying that sugar has been free from export duty for a long series of years, the President of the Chamber of Commerce no doubt alludes to the Free Labour Sugar Committee of 1840. Indian sugar exported to the *United Kingdom* and the *British possessions in British bottoms* was then exempted from duty. But the exportation to all foreign countries was only declared free in 1859.

Then, although hides, sugar, and silk have not increased like tea and coffee, they have, nevertheless, made considerable progress. In 1859-60 sugar was exported to the value of £961,424, in 1860-61 to the value of £997,904, in 1861-62 to the value of £1,233,676. In 1862-63 there was a temporary drop to £987,521, which was more than recovered in 1863-64, when it rose to £1,442,219. The great exportation, however, is to Bombay, which is becoming like England. The local agricultural resources no longer suffice, and the imports of sugar and rice from Bengal and Burmah are very large. Those are all free under Lord Auckland's admirable measure for the enfranchisement of the coasting or interportal trade, which has been lately extended to all the Native States in the Madras and Bombay Presidencies. Bombay will indirectly profit by this slight duty upon the foreign trade, which will act as a bounty upon the free trade to Bombay. I do not see why increased importations of food for man and horse at Bombay should be cited as a sign of distress. It is merely a consequence of the country increasing in wealth.

Silk has gone up in the same way from £799,251 in 1859-60 to £1,080,471 in 1863-64.

Wool is entirely a Bombay export: It comes from the Punjab, Scinde, and Afghanistan. In

the present dearth of cotton, Leeds and Bradford will take at high prices any quantity that can be sent. This three per cent. duty will do the native merchants no harm, for such is the progressive increase of price from the growing demand, that they are never likely to perceive the influence of the duty. I have always been interested in the Afghans, and been anxious for their civilisation; but this ought not to be promoted at the expense of our own subjects. The Afghan traders benefit by our roads, police, judicial establishments, &c., and why should they not pay their share?

The Hon'ble Mr. Bullen remarks that the sum which can be obtained from tea and coffee will be small; but finance is an aggregate of smaller particles: crores are made of lakhs, lakhs of thousands, thousands of tens, and tens of units. It has been painful to me to observe, that people in some parts of India talk almost entirely in lakhs, though sometimes they condescend to a lakh and a half. If you venture to suggest an economical reform, you are constantly met by the reply, 'what signifies a lakh more or less?'—It is precisely the same in respect to revenue, which is made up of a multitude of small receipts. It is only when all pay their share, small or great, that we shall have a prosperous revenue.

Mr. Bullen said that the Government had unsettled the Saltpetre trade by reducing the duty before the Budget. If the matter had not been so pressing, the alteration would have been deferred until the Budget was introduced. One of the incidental advantages of the Budget system is, that it settles the mercantile world for a year. For all that time merchants carry on their affairs with perfect confidence that they will not be broken in upon by any sudden change, and then they are all on the *qui vive* to know what the Budget will bring forth. An exception was made in this instance because the high duty was starving our famous old Saltpetre staple, and as it was known that the Secretary of State, had called the attention of the Government of India to the subject, the exportations were suspended. Under these circumstances, the Government determined to depart from their usual practice. But I hope they will never do so again except under equally urgent circumstances."

The Hon'ble the MAHARAJA OF VIZIANAGRAM said that, having learnt from the Budget that throughout the Madras Presidency the duty on Salt was one rupee and fourteen annas per maund, while it was three rupees and four annas throughout the Presidency of Bengal, he saw no reason why the duties should not be equalized by the Madras duty being raised to the level of that of Bengal.

His Honour the Lieutenant Governor said that nothing could be further from his intention than to embarrass Sir Charles Trevelyan or the Government, or to object to increased taxation if it were necessary. He quite agreed that it was desirable to have a small addition to the surplus anticipated from existing sources of revenue, and he certainly would not have suggested that the additional export duties should not be imposed, if he had not been prepared to show that they really were not required, and that the sum which they were intended to produce would flow from another source.

He would not discuss the grounds upon which these export duties were defended, and was quite willing to admit for the sake of argument, that they were in themselves unobjectionable. The simple issue he wished to submit to the Council was whether the average price of Opium at the sales of 1865-66 would not in all probability be so high that the amount required to make up the estimated surplus, or even more, would be realized without having recourse to new taxes. If this question were, as he thought it must be, answered in the affirmative, it would obviously be unnecessary, and therefore impolitic, to impose additional export duties. He had lately had occasion to give much attention to the subject of the Opium Revenue, and he could state that the price varied inversely, with almost mathematical certainty, as the produce of the season immediately preceding. If that produce were more than usual, the price was less than usual, and *vice versa*. While a crop of 50,000 chests brought only Rs. 1,000 per chest, a crop of 45,000 chests would bring in about Rs. 1,200. He felt confident that, considering what the crop of the present season was likely to be, the price at the sales of 1865-66 would certainly be at least Rs. 900, and if so, a larger additional sum would be raised, without weighing upon the mercantile classes or interfering with growing industries, than would accrue from the taxes proposed by Sir Charles Trevelyan. He would propose as an amendment "that so much of the Bill as provided for the imposition of export duties should be omitted."

His Excellency THE PRESIDENT said that, before the amendment of the Hon'ble the Lieutenant Governor was put to the Council, he should like to say that, it having been considered expedient, for various reasons, to give up the Income Tax, he thought the Government had exercised a wise discretion in proposing to supplement its ways and means by a moderate amount of export duty. He quite entered into the feelings of the Hon'ble Mr. Bullen in deprecating this taxation, and every other taxation, as a great evil. At the same time it struck him (His Excellency) that, after taking into consideration all we hoped to gain in the way of income, and all we hoped to save in the way of expenditure, there would still be required such a margin as the Financial Member had stated.

His Excellency felt the whole force of Mr. Bullen's objection as to taxing such articles as Raw Hides, Sugar, &c. But he thought that Jute, Tea, Coffee, and even Wool, could well bear this duty. Perhaps Wool could least bear a duty, but he believed that during the last ten or twelve years, Wool had risen in Upper India to double—he might say more than double—its old price, and moreover, nearly the whole of that increase had gone to the producer. Such being the case, he thought there was no fear that Wool could not fairly bear the extra tax.

As regarded the other articles, he concurred with much that Mr. Bullen had said. But at the same time he (the President) did not think that we could hit on any articles more eligible for taxation than those selected by Sir Charles Trevelyan. The Lieutenant Governor of Bengal assumed that we should get at least Rupees fifty per chest of Opium more than was estimated. He (the President) should be very glad if this were so, but even should it be that we had more, we had ample

means of spending it. The demands on Government were daily—almost hourly—increasing; and it was with very great difficulty that we were able to meet our steadily increasing expenditure. Every class of the community was in favour of expenditure; and he might also say that almost every class was opposed to taxation. If by chance, we should have a very considerable margin in the shape of Opium, a large portion of that would be absorbed in inevitable extra expenditure. If not, he thought that they could not do better than allow the extra duty to be treated as a set-off against the additional expenditure on account of Barrack accommodation, &c.

The Hon'ble Mr. Cowie had said that it was unfair to tax the present generation, and that it was wise and right to impose considerable burthens on posterity; but, with all deference to that gentleman, he (the President) begged to differ. His opinion was that the only true economy was to live within one's income. When a Government, like a man, once became a prodigal, not only did its sense of economy become relaxed, but habits of extravagance became its second nature, accompanied, as was always the case, by feelings of anxiety and constraint. Now, if there was any country in the world in which the Government should be light and free, and be like a strong man, unshackled and ready for the race set before it, it was here in India. Here we were a few governing many: we did not know what a day or an hour might bring forth. Without any fault of ours, we were unable to foresee what might next happen. Surely in such a case it was of the utmost importance that we should not incur debt, so that when the time came we should have greater ease in borrowing money, and less discomfort in bearing the amount of an additional debt. But, even admitting that there was force in the argument that we should make future generations bear the burthen of some portion of the expenditure necessary on Military works, ought we not to remember to what extent we had already involved our successors by what had happened during the last seven or eight years? The Indian debt was little more than sixty millions when the mutiny broke out; now it was little short of ninety millions. Here we had added upwards of thirty millions to our burden. Surely that was enough for future generations. Then it must be borne in mind that, in incurring this expenditure for Military works, you could not recoup yourself; nay, it involved a constant future expenditure of at least eight per cent. on the Capital sunk to provide for wear and tear. Having very little money to spend in that way, we must arrange for an annual expenditure of £100,000 for the maintenance and repair of the works in question. This alone would add largely to the annual burdens. When the Government of India decided that the Secretary of State should be asked to borrow a large sum for these works, it was then understood that our deficit would be very much larger than it has now proved. It was admitted that it was absolutely essential to have those Military works, while it was equally certain we had not the means to pay for them. We then made up our mind to incur a debt. But in doing so we made a proviso that we would only borrow a certain portion of the sum required, and meet the balance out of Revenue. Now, as he had said before, he did not think that we could do better than give any surplus which might arise from Opium to diminish the sum borrowed for the Military works.

There was one alternative which the Lieutenant Governor of Bengal had suggested in place of the export duties, but which he (the President) must say was abhorrent to his feelings—namely, to increase the duty on Salt. While he (the President) admitted that a moderate Salt tax was desirable, when it became heavy, it was always found to press with undue weight on the poorer classes. He then admitted there had been a great improvement in the people of India, and that the agriculturists were now in comparatively affluent circumstances. But two things must not be forgotten. First, that they were not so exceedingly well off as that, relatively to the other classes, they were able to bear any further additional taxation. The class that corresponded with the English yeomanry in former days lived no better than coolies, from hand to mouth, and on an amount of subsistence barely enough to support life. Then, throughout India there was an enormous class below the peasant proprietors, who had only partially benefitted by the improved wages of labour which had been more than set-off by the high prices of articles. He thought, himself, that a thorough enquiry would show that, while wages had generally increased, the large increase was confined to places near towns, along Railways, or where these and other great public works were going on, and within fifty or a hundred miles of those works. Only the other day a gentleman who lived in Behar, one of the most intelligent and able of the non-officials in India, had told him (the President) that the wages of labour there could not be more than two Rupees eight annas, or five shillings a month. In the North-West Provinces he (the President) had made enquiries in April last, and he found that at a distance from the Trunk Road the wages had not risen much higher. So at Mussoorie and Simla. And he believed that wherever wages had risen considerably for a time, when the works had been completed in that particular locality, there had been a tendency for wages to come down again to something like the old rates. The result of his enquiries had been a conviction that it would be a great evil to raise the Salt tax. It was not many years ago that the Salt tax was two Rupees four annas in Bengal; it is now three Rupees eight annas. Formerly, it was as low as eight annas in Madras and Bombay; now it has been raised to one Rupee eight annas. His Hon'ble friend Mr. Anderson would bear him out as to the impolicy of raising the duty in the Bombay Presidency.

The Hon'ble Mr. ANDERSON said there had been a riot in Bombay in consequence of the attempt to raise the Salt tax.

His Excellency the PRESIDENT continued.—Take the North-West Provinces; not many years ago the duty on the excise on salt from Rajputana was two Rupees a maund, it was now three Rupees a maund. In those days the extent of smuggling in that line was enormous, and affrays between the smugglers and the Revenue Officers were of constant occurrence. He spoke of these things from his own knowledge, having been a Magistrate there at that time; and it was with great difficulty that smuggling could be put down. And we all knew that the higher you raised the duty, the greater the inducement to smuggle.

In the Punjab, where the Salt duty was one Rupee eight annas a maund at the date of the

annexation, we made it two Rupees; now we had raised it to three Rupees. The Salt tax in that Province produced a singular anomaly, which came home to every inhabitant. There the Salt was in mountain ranges, (it was, he might remark in passing, the finest rock Salt in the world) fifty, sixty or seventy miles long. These were bisected by the Indus. On the Cis-Indus side the people paid a tax of three Rupees on their Salt: on the Trans-Indus side one of only two or three annas. We did not raise the latter tax simply because it was not worth while to do so. If we had raised it, we should have had a convulsion among those wild mountain tribes under our rule, the cost of putting down which would have swallowed up the proceeds of the increased tax for years. Those tribes, too, would have contrasted their condition of having Salt so dear that they could not afford to give it to their cattle, with that of the neighbouring free tribes who got their Salt almost free of duty.

If you raised the tax in Bengal, you rendered it oppressive, and on the whole, he (the President) would rather see the Salt tax reduced than increased.

The Hon'ble MR. COWIE said that "with reference to one remark which fell from His Excellency, he would record his humble opinion, that a nation with an income of forty-eight millions and a debt of ninety millions was very lightly indebted. He congratulated the Government that it was so."

The Hon'ble MR. BULLEN said that he should support the amendment of the Hon'ble the Lieutenant Governor. He had been willing to agree to a duty on Jute and Grain, on the supposition that some additional revenue must be raised; but from the explanation which the Lieutenant Governor had given regarding Opium, it seemed certain that the revenue of the current year would be ample, without any addition to the export duties, and he should therefore oppose them all. With regard to what had fallen from the Hon'ble Sir Charles Trevelyan in answer to his (Mr. Bullen's) remarks about the Tea and Coffee duties, it would appear that the Hon'ble gentleman had misunderstood him. He had not argued that these articles ought to be free of duty, because they were produced by Europeans. Indeed it was well known that the cultivation of these articles was not confined to Europeans. Not long ago he had read a report of the progress of tea cultivation in the Kangra District, wherein it was stated that the cultivation by the Natives was rapidly increasing, and as the Hon'ble gentleman himself well knew Coffee was also largely cultivated by Natives in Mysore and Coorg. He mentioned as only a collateral advantage which these industries had, that they attracted into the interior English settlers and English capital. His fundamental objection to duties on these articles and on Silk and Wool was, that they would fall on the producer, and as such, they were opposed to sound political economy. To the argument that Wool ought to pay an export duty, because the producers of it, in conveying it to our ports, had the advantages of our roads and of the security afforded by our police, he would reply that the true policy was to encourage our exports, and to look to the duties on imports for contributions to these objects. The more profitable the export trade, the more money would be expended

on imports and the greater the revenue which would be derived from them.

The amendment being put to the Council was negatived.

The original motion was then put and agreed to.

The Hon'ble SIR CHARLES TREVELYAN then moved that the Bill be passed.

The motion was put and agreed to.

The Council then adjourned.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,
Home Department, (Legislative.)*

CALCUTTA,
The 5th April 1865. }

PUBLIC WORKS DEPARTMENT.

Progress Reports of the Punjab Railway for the half-year ending 31st December 1864.

From Lieut. Colonel G. Sim, R. E., Under Secy. to Govt. of Punjab, in the P. W. Dept., Railway Branch, to Secy. to Govt. of India, P. W. Dept.,—(dated 28th February 1865.)

I am directed to forward to you, for the information of the Government of India, the Reports of Progress on the Punjab Railway for the half-year ending 31st December 1864, of the Railway Department, noted in the margin, copies of which, as usual, have already been transmitted to the Board of the Company in London by the Acting Agent.

2. These Reports have been laid before this Government by its Consulting Engineer, whose remarks, and the result of his own half-yearly inspection of the line and works lately concluded, will be found in that Officer's Note accompanying the enclosures of this letter.

3. That Officer has entered so fully into the particulars and specific details of the good progress that has been made, the credit due in his opinion to those employed, more especially in laying 68 miles of this line in a little less time than the six months reported upon, and the actual present state of the line, with respect to the proposed opening of the Lahore and Mooltan Section of 208 miles in length for public traffic at an early date, that no further remarks on these points seem to be called for.

4. The Hon'ble the Lieutenant Governor, however, feels very great satisfaction, which he trusts the Supreme Government will share, in now being able to announce the good progress thus effected by the Company's Officers towards that final completion of this important undertaking which has been so long desired and looked for in the Punjab.

5. And here His Honor would offer to observe that, although in the first two or three years of the construction of a Railway in India there may appear to the general on-lookers but little real work completed or progress effected, it is not to be supposed therefore that, in the later years of construction, a similar rate of progression towards the desired consummation may alone be expected. On the contrary, the unusually rapid

and excellent progress in all branches of this undertaking, and on the Mooltan line more particularly, which this Government has had it in its power to report during the past year, would point to the fact that any slowness of work or slackness of control in the earlier years after commencement (although after all such is but seemingly real; because, as soon as we reflect on the distance of the sources of supply of all the important materials required in the construction of a Railway in India, as well as on the disappointments, losses, or delays, inseparable from the various modes of the only available transport that can be used, we should be the rather disposed to agree that a far longer period of time for maturing all needful arrangements in India is called for than elsewhere, and unavoidably should be allowed for, however irksome this may be to our patience) will in the end certainly be condoned by an unexpectedly rapid progress in the subsequent years, directly the *full quantity of those materials* have been received out in India and delivered on the ground.

6. For, as regards slackness of work, the Supreme Government will recollect that there was a feeling prevalent in the Punjab about two years ago, so far as this very section of the Railway was concerned, that its progress up to that time had not come up to expectation, there being apparently good grounds for that impression on the part of this Government.

7. It is consequently the more satisfactory to His Honor to be able now to award the meed of praise to those to whom it is due, when forwarding the present reports; and to feel assured from the Consulting Engineer's report about the line that, in all probability in a few weeks' time, travelling by Railway between Lahore and Mooltan will have become the universal mode of transit for all classes, and also for a large number, if not most, of the travellers wishing to proceed from the Punjab to England.

8. The question of completing the fencing of the line before opening is now under the consideration of this Government.

9. Lastly, the Lieutenant Governor feels deeply, as already reported to the Supreme Government on the announcement of the late Agent's decease at Kurrachee, the great loss sustained by the Company in Mr. Stevens' death; and he willingly joins with the Consulting Engineer in his expressions of sorrow for the sudden withdrawal from the Agency of one with whom that Officer had maintained most friendly relations in all official duties, and who proved himself to be a most able coadjutor in the conduct and control of an undertaking which involves the interests of the Government as well as of the Company.

NOTE by Lieut. Colonel G. SIM, R. E., Consulting Engineer to Government of Punjab, to accompany the Reports of Progress on the Punjab Railway for the half-year ending 31st December 1864,—dated Lahore, the 22nd February 1865.

The Reports now submitted for the information of the Government are those of the Chief Engineer and Traffic Manager, together with a copy of a Despatch No. 3, dated 20th ultimo, from the Acting Agent, transmitting them to the Board of the Company in London, and at the same time conveying that Officer's Report for the half-year in

question. And here I would observe that, having but a few days since concluded my own customary half-yearly inspection of the line and works from Lahore to Mooltan, in company with the three departmental Officers above named, I am in a better position to place before Government the actual present state of the works on that extensive Section of the Railway which yet remains to be opened for public traffic, as well as offer a few remarks on the progress referred to in their respective Reports.

Lahore Station.—The details of work done during the half-year, and remaining to be done, at the main Passenger Station Building are stated by the Chief Engineer. There is now actually but little wanted to complete the same according to sanctioned estimates except the erection of the iron roofing over the 'arrival' and 'departure' platforms, and the two sets of rail tracks belonging to each. The trusses are intended to rest in the series of masonry arches that spring from the capitals of the masonry columns standing at intervals down the centre space between the two sets of rails, and both arches and columns are all built. It is hoped that this and other iron roofs, sent for from England so long ago as the autumn of 1863, will shortly be received out. But the building will be used for traffic purposes, on the opening of the line to Mooltan irrespective of this roof.

The occupation of the rooms on the 'arrival' side intended for the Offices of the Agent, Chief Engineer, Accountant, &c., was carried out just before the close of the preceding half-year; and they have since that period been fully equipped with all needful fittings and furniture, and these being made up in the Railway workshops of the best material and workmanship are somewhat more expensive than what are usual in Indian Offices. For the Booking Offices and Passenger accommodation rooms, &c., on the 'departure' side, fittings and furniture have been lately sanctioned by Government, and are under preparation so as to be ready before the opening of the line to the public; on this side also there will be rooms and Offices for the Station Master, Telegraph Clerks, Traffic Agency, &c. The attention of the Railway Authorities has further been called to the need of a strict system of conservancy arrangements for this large Passenger Station; a no very easy task when it is remembered that it is constructed for defensive purposes, and except in the middle of the two long curtain (or corridor) walls, where the 'entrance' and 'exit' portico doorways are provided, and at each end of this fortified parallelogram where the arched openings over the rails (to be closed by massive sliding doors should it be ever necessary) allow of the passage of trains in and out, there are no other doorways in the walls or openings of any kind to allow of passage to the outside.

General Workshops.—The remarks of the Chief Engineer are correct. This block of buildings was the first erected, a portion of it to be temporarily used as the Running Engine-shed for the Engineers to work the Umritsur Section traffic, while others were being erected in it for use on the Mooltan line when opened. Hence all the work of the Locomotive Department has hitherto been carried on in these shops, and the petty and more valuable stores of the Store Department have been also temporarily accommodated in another portion of the block.

No Running Engine-shed or separate Store-shed have as yet been erected, and the general stores and materials, iron work of all kinds for Carriages, Engines, &c., have had to be kept in an open enclosure to their evident deterioration, and as yet also there is no running or spare Carriage-shed, which during the hot and rainy months is much required.

The Chief Engineer's proposal is to convert the present block of workshops into a Running Engine-shed suitable for the whole line, and apply for sanction to the construction of a set of workshops complete, and a store-shed on the opposite side of the yard, and adjacent to the present commodious Carriage building shed, smithy, and saw-mill shops. This will not only make the yard more complete for working the line, but is now found to be absolutely required; but its first temporary wants have been well supplied by this block of shops.

Station Yard.—The Chief Engineer is now completing the approach roads for the Passenger Station and the fencing of the yard; also the erection of Native workmen's dwelling-houses and latrines for the use of both the European and Native work-people, in accordance with the suggestions of the Sanitary Report of the Medical Officer, and near the European Barrack the ground is being levelled, while to the south a vegetable garden for their use is to be laid out.

Railway Institute.—The Institute, with its library, swimming bath, gymnasium, &c., is greatly approved of by the men, who, I believe, one and all subscribe to its maintenance; its management appears to be well cared for, and credit is due to the Resident Engineer for the way in which he has laid out a small garden and grass plots about it. His Excellency the Viceroy visited this building, and, as it is believed, highly approved of it and its objects.

European Workmen's Dwelling-houses.—The number of this class will be much increased when the line is opened throughout, and it will be necessary to construct some additional dwelling-houses, especially as the two old Mission-houses, to the south of the Passenger Station, purchased, as being on the Railway land, in 1860, and since temporarily occupied by several of the men, will shortly be removed, as it was always intended when works were completed for a general opening of the line. The best kinds of houses or cottages for both married and unmarried workmen will be carefully considered, as there is at present some discontent amongst this class of workmen on account of the rents they are called on to pay when occupying the Company's houses at Lahore and Mooltan. The subject is an important one, and a valuable report from the Medical Officers of the Company at Head Quarters has been lately received by me, touching on the question of suitable houses, fair rates of rents, and the need of giving the men better accommodation than hitherto provided for, on the grounds of morality, contentment, and healthiness; but now that additional houses will be called for, the Government will doubtless favorably consider the matters discussed by Dr. Smith.

Locomotive and Carriage Stock.—There were 461 vehicles of sorts, exclusive of engines, complete and in use at the end of the year, and six more then under construction, total 467. Since then

a number of engines and tenders have been received at Mooltan from Kotree. There is ample stock to work the traffic on opening, as the trains at first will be mixed trains, and but one each way daily, the engines changing at the half way Station at the 104th mile, which, like the new Civil Station arising near it, is to be called 'Montgomery' instead of 'Saheowall,' or 'new Gogaira' as hitherto. When through communication by rail was opened at the end of December, the Rolling-stock at Mooltan which from heat and exposure during the past two years and more was found to require considerable repairs and renewals, was brought up to Lahore, and fresh Lahore stock sent in its place. But at Mooltan there is no cover whatever as yet for the carriages and other stock, and the dust and the sand of the districts through which the line passes for many miles, laid with the sleeper pots set in sand, cause great wear and tear and deterioration.

Lahore and Umritsur Section.—The permanent way and works have been maintained, as stated by the Chief Engineer, in excellent order, and at a moderate rate for maintenance of about Rs. 200 per mile, but as yet scarcely any sleeper renewals have been required.

A roadside Station for native passengers has been sanctioned by Government at "Khasa," at the 24th mile from Lahore, and half way between Attaree, at the 16th mile, and Umritsur. It seems called for and likely to answer well according to the report of the Civil Authorities, but at present the Station will comprise only a ticket platform, signal, and a small booking Office of wood for a Booking Clerk, and will be opened from the 1st March. There are several large villages near, and some goods traffic in produce also is expected to spring up.

The state of this building is as detailed by the Chief Engineer, and it will present a new feature in the structures on this Railway, viz., slate roofs. It is an excellent building for the required purposes as well as a handsome structure, and well built by the Contractor, Mr. Coates. It will ere long be in use for the traffic between Lahore and Umritsur, which will be worked, as at present, with two trains each way daily, and to some extent independently of that from Lahore to Mooltan, or at least until trains can be run at night on the latter section. A bungalow for Guards, Drivers, &c., at this Station has yet to be constructed.

The extra accommodation adverted to by the Chief Engineer was deemed absolutely required by both the late Lieutenant Governor and the Medical Officer, chiefly at the single and not the double roomed Station bungalows, to be henceforward used as Traffic Stations. It should be recollected that these buildings have served their first designed purposes, viz., as residences for the Engineers and others employed in the construction of the line and works, but as they are now to afford accommodation for the Station Masters and Telegraph Clerks, as well as Booking Offices, and leave at least one room free for the use of passengers, ladies, or invalids, if unable to go through the whole length, the single roomed bungalows under the orders of Government have been sanc-

tioned to be enlarged for the several purposes named, and should be completed during the next three or four months. The intermediate Stations, with this exception, are generally quite ready for the traffic on opening, in regard to their watering arrangements, platforms, engine-pits, signals, &c., but the provision of latrines for the 3rd class passengers is still a requirement to carry out.

Here there has been rapid progress made during the past year, and a large and commodious passenger Station, as described by the Chief Engineer, has been now completed, with the trifling exception of the Booking Office arrangements and its fittings and furniture. The masonry is excellent, and the bricks made here by the Company, by machine and otherwise, are perfect. The running engine shed to receive 16 engines is now almost finished; a 40 feet turn-table now in use, and a Guards' and workmens' bungalow for four men already constructed up to springing of arched roofs. All the buildings here are constructed with vaulted roofs of masonry, and those who have resided in the passenger Station state that they did not find the rooms hotter than those of their ordinary bungalows with flat roofs covered with mud. The engine watering tank is constructed over one end of the running engine shed, and the water will be pumped up into it by a force pump (from Roorkee) to be worked by bullock-power; a fuel shed is to be built, and the fuel platform is being constructed.

The goods shed, when I inspected it last week, was being tiled, and the Engineer expected to finish the building entirely with turn-tables, line of rails, outer goods platform, &c., in a month's time. The running engine shed for twelve engines and its adjacent Locomotive Office and small workshops, are all complete and in good order. A fuel platform is built, but no shed as yet; watering arrangements, tank, water-crane, engine-pits, &c., all ready.

The temporary Station built for the traffic on the Shere Shah section will be used for the line when opened throughout, as probably it will suffice until the question of building a large passenger Station or not at this Station is set at rest; and this probably will not be until the views of the Government regarding any removal of the Military Cantonment from its present situation, where it is stated to be liable to inundations, to higher ground a few miles up the Railway line towards Lahore, have been expressed in some more positive manner than is yet known in the Railway Department.

Temporary workshops and a store-shed have been constructed here, which answer their purpose quite well enough for the present, and it is now proposed to turn a portion of the building, purchased by the Company, just outside its boundaries and occupied as a workmen's barrack until the permanent blocks could be built, into a reading room and library, as a branch of the main institute at Lahore, with a cricket or bowling ground laid down in a field near it, thus affording means of recreation to the workmen who will be collected here by and by in some number.

Here there will ever be some difficulties to encounter, for the river changes its channels so often, and yearly cuts away its low banks, as to put out of the question the construction of any permanent wharf, walls, or jetties, or the laying down of a permanent Railway line between the Shere Shah Station house and the usual landing places of the steamers in the ordinary seasons of the year. The Station is well raised some feet above the low land, and during the inundation of August last escaped from injury, as also the main line from it upwards and towards Mooltan; while the low land was submerged, as also a portion of the temporary line of Railway that had been laid from the Station to what had been for many years previously the ordinary river's bank where steamers and boats usually landed their cargoes, thus cutting off the communication for some days. As far then as this Station house the trains will be run, and goods deposited there temporarily in depôt, to be conveyed thence to the steamers as they arrive and to boats according as they shift their landing places, either by rail across the low land whenever practicable and not submerged, or by small cargo boats if the waters are high and up to or near the Station, or by such other means as circumstances shall require. But the parties to the through booking traffic arrangements between Lahore and Kurrachee, viz., the Punjab and Scinde Railways, and the Indus Flotilla Company will have to come to some arrangement for overcoming this little impediment to a complete system of inter-communication.

It is for carrying on this work that every credit is due to the Company's Officers who have been employed more particularly under this head, and the Government will doubtless be disposed to announce its gratification at the successful result of their labours. When I submitted my report of the progress arrived at by the close of the year 1863, I showed that 103 miles of the main line had then to be laid before through communication could be made. Again in my report for the half-year ending 30th June 1864, I had to state that 35 miles only of that length had been then laid. What then remained has been since completed, no less than 68 miles of rails having been laid, and so perseveringly that, by the 19th December, the last rail was linked in, and on the 23rd idem, the first through train travelled from Lahore to Mooltan, conveying the late Agent of the Company, then very ill and on his route to England, whose vigorous encouragement and inspiring system of control truded in no small degree to lead to this most satisfactory result. It is not surprising, therefore, that his untimely death at Kurrachee, in about a month afterwards, caused the deepest regret to the Government, as well as much sorrow amongst the Railway staff.

At the close of the half-year the Chief Engineer describes the state of the line as regards the permanent way, showing that in about 70 miles of the whole line there was a good deal of lifting and ballasting still to do, before it would be in a proper state for regular travelling. But since that time strenuous efforts have been made by the Engineers and Platelayers, and daily improvement takes place. That portion requiring

most attention and ballasting is of course in the last 20 or 30 miles that were laid, but daily ballast trains are being worked, and in a month or two the whole should be lifted, packed, and rendered fit for opening, while the final ballasting to complete the boxing up can be carried out after traffic has commenced, as is usual on most lines.

There are about 75 miles of the line in the sandy districts towards Mooltan laid with the iron sleeper pots, and the whole length is in excellent order for travelling over, and well proved by the heavy trains with materials that daily pass over it. The only drawback is from the light sand that is whisked up in clouds as a train passes, for, besides the annoyance to passengers, this fine dust is prejudicial to the machinery of the Locomotives and bearings of the vehicles generally. The Chief Engineer intends, however, to cover the surface of the pot road with a top dressing of brick ballast, broken small, as also of broken pottery, quantities of which can be collected from the mounds and ruins of ancient villages found scattered about amidst what is now only a country of waste and jungle. Wherever the plan has been tried, the evil is almost prevented.

My late inspection of the line was carried out for the first time by Railway General remarks about the line and its probable opening for traffic. throughout, and on returning from Mooltan the journey of 208 miles was performed in eleven hours, inclusive of stoppages at the intermediate Stations, ten in number, and which probably occupied in all nearly two hours of the time. This will, I think, show that trains for traffic purposes could also travel with ease and rapidity. Yet it is desirable to strengthen, lift, and tighten with a greater quantity of ballast. The line throughout the 20 miles or so last laid, before any regular traffic is run, as that will to a great extent impede the running of ballast trains as at present, and delay the consolidation of the line.

There are about eight or nine gate-keepers' huts (masonry with vaulted roofs) yet to build, and gates to put up, although the latter are made and ready when required.

The watering cranes and arrangements are ready for working at nearly all the Stations, also the platform signals, these at several Stations being already erected, and at others now being put up. The traffic can be carried on irrespective of the additions being made to the Stations as above explained, at least for three months or so.

In fact I do not see that I can demur to the Chief Engineer's estimate of the end of March as the time when the line could be opened, so far as travelling is concerned, or say in the middle of April, save in one particular—the fencing of the line.

Probably by the middle of April half of the line, or from Mooltan to the half-way Station at the 104th mile, may be fenced on both sides, but as there is a deficiency of materials in store at present,

and will be until two ships freighted with a quantity arrive as expected about April at Kur-rachee, the completion of the fencing throughout the line to Lahore will certainly occupy several months to come. At the present date about 44 miles only of double fence have been erected from the Mooltan end. It is, so far as it is completed, an excellent fence of iron standards in iron sockets with the usual straining pillars and five strands of galvanized wire of the same kind as that erected on the Umritsur Section; and which appears to answer admirably in a country where white-ants abound. Cactus or other hedges will not grow in most places, and mud-walls, as tried on the Shere Shah section, do not suffice to prevent the trespass of cattle.

The Railway Authorities are desirous of opening the line without waiting for the completion of the fencing, although they are averse to the use of cow-catchers.

But the question as to whether the line under the Railway Act, &c., can be opened for traffic, before it is fenced throughout, is now being discussed by the Government, and, pending a final decision, the opening must remain in abeyance. The indent for the supply of this fencing was sanctioned by the Local Government in April 1863, and then sent to the Board for compliance; and yet the materials have not been received in full in two years; any delay in opening must, therefore, be assigned to the want of despatch under this head on the part of the Railway Authorities in England.

A copy of the Traffic Manager's half-yearly report, as transmitted to the Board of Directors, accompanies these papers, but it deals with the subject only in a general way for their cursory information; and until the detailed Revenue Returns are received, no further advertence to the report can here be made than is given in the Acting Agent's Report. The epidemic that has raged at Lahore and Umritsur during the colder months has affected the Traffic Returns considerably, although it is stated that there has been an increase of receipts and travellers on the whole period over the corresponding period of 1863 in the former case of above Rs. 8,000. I may mention that the introduction of the double storied 3rd class carriages, carrying 130 when full as the limit allowed by Government, has given great satisfaction to the class mentioned by whom they are preferred. The Company have now 12 ready for use. Moreover there are now nearly the full number of vehicles turned out for Rolling-stock as estimated to be required for working the whole line when opened. And all needful increase to the Locomotive and Traffic Establishments has been lately sanctioned by the Government.

Mr. Finch, who has been the Accountant of the Company for above six years, has, with the sanction of Government and the Board, been carrying on the duties of the Agency Office since 19th September, when the late Agent, Mr. Stevens, was seized with the attack of paralysis that has ended in that gentleman's decease at Kur-rachee last month. His death

is deplored by all the Railway staff deeply, and the Local Government has expressed its sincere regret at the loss of so able an Agent and administrator of the Company's affairs in India. It will be difficult to supply the Agency with such a skilful, energetic, and intelligent Chief Officer as the late Mr. Stevens. And in this report I cannot refrain from recording the sorrow which, as a personal friend of his, as well as the Government Railway Officer in daily official intercourse with him, I have felt his untimely loss and removal just when the work he had been sent out to control in co-

operation with the Government, had arrived at that point of completion he had so strenuously and successfully endeavoured to effect from the very day, nearly four years ago, when he assumed charge of his duties at Lahore. His life was spared just long enough, and his desire was fulfilled. He was the first who travelled throughout by the line of the Railway for which he had laboured so well; but he was then conveyed as a helpless stricken man, and in a few short weeks afterwards was laid in the grave before half of his journey homewards could be accomplished.

Plate-laying in the Punjab Railway.

Progress Report of Plate-laying for the month ending January 1865.

	Miles.	Chains.		Plate-laying required.	PREVIOUSLY		THIS MONTH		TOTAL		Distance
					Linked in.	Completed.	Linked in.	Completed.	Linked in.	Completed.	
			DISTRICT NO. 1.	M. C.							
From	...	72	Main Line at Lahore Station	30 73	30 73 0	30 73 0	.....	.....	30 73 0	30 73 0	
To	31 65		Umritsur Station								
			DISTRICT NO. 2.								
From	...	72	Main Line at Lahore Station	53 8	53 8 0	53 8 0	.....	.....	53 8 0	53 8 0	
To	54	...	„ towards Mooltan								
			DISTRICT NO. 3.								
From	54	...	Main Line	56 0	56 0 0	0 4 0	.....	.....	56 0 0	0 4 0	
To	110	...	„ towards Mooltan								
			DISTRICT NO. 4.								
From	110	...	Main Line	56 0	56 0 0	34 8 0	.....	80 0 0	56 0 0	42 0 0	
To	166	...	„ towards Mooltan								
			DISTRICT NO. 5.								
From	166	...	Main Line	54 30	54 50 0	50 30 0	.....	.....	54 50 0	50 30 0	
To	220 30		Sher Shah Terminus, 11½ miles beyond Mooltan Station...								
			Total from Main Line ...	250 31	250 51 0	168 35 0	.....	8 0 0	250 51 0	176 35 0	
			Station Yards and Sidings ...	30 67	15 35 97	13 19 97	0 40 0	.....	15 75 97	13 19 97	
			Total ...	281 18	266 6 97	181 54 97	0 40 0	8 0 0	266 46 97	189 54 97	

LAHORE,
21st March 1865. }

(Signed) J. HARRISON,
Chief Engineer.

Govt. of Fort St. George.

Report on the Government Cinchona Plantations and Botanical Gardens for 1863-64.

1. Notwithstanding the unusually trying seasons of the past official year, it affords me much satisfaction to be able to state that our Cinchona plants have in every respect made most satisfactory progress. In the propagation still greater results have been obtained than those previously described, the maximum monthly produce of 32,408 plants were obtained in February last, the average heights varying from 6 to 9 feet with thick stems well furnished with lateral branches, and presenting as robust and healthy appearance as could be wished. Like most trees of their age these plants are not now making so much perpendicular growth as they did in the first year, in consequence of the number of branches thrown out, whereby the direct flow of sap is diverted from the leading shoots, the plants nevertheless are gaining in thickness more than they have hitherto done. The Cinchona Officinalis, Bonplandiana, and Cresspilla have been found to succeed best on the Dodabetta plantation (about 8,000 feet elevation), where the plants are robust and luxuriant, although not making so great perpendicular growth as at lower elevations. The 1st Dodabetta plantation possesses every exposure and many varieties of soil, and over the whole of this site these three species have been found to thrive well. The result of this year's analysis has also established an extraordinary increase in the yield of alkaloids, showing the product to be 6 per cent. of rough alkaloids, while the previous analysis gave 4.3 per cent. From these observations it is plain that Peruvian bark will now be secured to India as one of its products. The cultivation of these very valuable plants has produced results far beyond our original expectations, and now that we have obtained considerable experience in their management, greater progress may reasonably be expected. With these preliminary remarks, I proceed to particulars which, for the sake of convenience, are arranged under the following heads:—

Heads of Report.	Paras.
1. Growth and condition of plants ...	2 to 13
2. Cultivation, results obtained by private planters in the ...	14 and 15
3. " prospects of its spread and increase ...	16
4. " influence of woods on rain-fall and climate ...	17 and 23
5. " modification of former treatment ...	24 to 28
6. " under the shade of living trees and in the open ground ...	29 and 30
7. " effects of storms and of wet and dry weather on ...	31 to 33
8. Gathering of the bark and treatment of plant for this purpose ...	34 to 38
9. Cinchona Pitayœusis attempt to introduce value, &c. ...	39 and 40
10. Establishments ...	41
11. Progress of operations ...	42 to 46
12. Botanical Gardens ...	47 and 48
13. Concluding remarks... ..	49

Appendix A.—Accounts from commencement of operations to 30th April 1864.
 „ B.—Meteorological observations. Neddivuttum:
 „ C.—Ditto ditto Ootacamund.

2. Our first plants were permanently planted on the Neddivuttum plantation in August 1862. Growth and condition of plants on the 1st and 2nd Denison Plantations at Neddivuttum. Eleven plants of *C. Succirubra* selected for measurement, planted on the 30th idem by His Excellency Sir William Denison and other gentlemen, have made average growth of 3 feet from the date of being planted to the 30th April 1863, (nine months) and from the 1st May 1863 to 30th April 1864, 2 feet 11 inches; this it may be estimated is 3 inches in excess of the average growth of the whole of the plants of this species throughout the plantations; the older plants have gained much in thickness during the last year, and thrown out many strong branches varying from 1 to 5 feet in length. Attained 3 feet in height in first nine months. 2 feet 11 inches in the preceding 12 months. Increased considerably in thickness and lateral growth.

3. The bark has also much improved, the thickness having increased considerably; the transverse marking characteristic of the finest Peruvian bark becoming very apparent and rudimentary lichens

and mosses have begun to develop themselves on the bark of the older plants, while their sturdy and

Robust habit indicating existence of as favorable conditions to growth in this locality as on the Andes.

development as in the most favorable localities on the Andes. The above remarks refer principally to the

C. Succirubra or red bark flourishing at elevations of 4,000 and 6,000 feet.

the *Chinchona*, in its new home, has found conditions quite as favourable to its growth and full development. The above remarks refer principally to the *C. Succirubra*, that species being more extensively planted on the Denison Plantations, and found to thrive well at elevations varying from 4,000 to 6,000 feet.

4. The *C. Calisaya* on the same plantations give an average annual perpendicular growth of 2 feet 4 inches, or 7 inches less than of *C. Succirubra*, the stems have however have not increased in proportion; in fact the stems of this

C. Calisaya or yellow bark of slower growth than *C. Succirubra*.

valuable species do not give one-half the average diameter of plants of *C. Succirubra* of the same age,

Producing only half quantity of bark in the same period. and consequently not more than one-half the quantity of bark in the same period of growth, the plants

Plants healthy and robust. are nevertheless healthy and robust; yet in a commercial point of view its comparative slow growth

will, I fear, operate against its extensive cultivation.

The *C. Micrantha*, *Peruviana*, and *Nitida* or grey barks have maintained an average growth almost identical with that of *C. Succirubra*, viz., 2 feet 8 inches,

but the bark formed by these species is fully $\frac{1}{3}$ th thinner than that of the *C. Succirubra*.

C. Officinalis or crown bark on Markham Plantation. 6. About 25,000 plants of *C. Officinalis*, planted on the Markham Plantation (elevation

5,000 to 6,000 feet) have grown taller, but not so robust as plants at higher elevations. Here however the *C. Succirubra* and *Calisaya* have made growth

C. Succirubra and *Calisaya*. quite equal to any of the plants of these species on the Denison Plantation.

On the Wood plantation at Pykara only two species planted, viz., *C. Succirubra* or red bark, and *C. Officinalis* or crown bark. 7. On the Wood plantation at Pykara the

C. Succirubra and *Officinalis* only have been planted, and have made progress equal to the plants at Neddivuttum.

8. On the 1st Dodabetta plantation (elevation varying from 7,830 to 8,350 feet), the progress of the *C. Succirubra*, and *C. Micrantha* has

1st Dodabetta plantation, elevation 7,830 to 8,350 feet. been unsatisfactory, the elevation being apparently

Too cold for *C. Micrantha* and *C. Succirubra*. too great; but the *C. Officinalis*, *Bonplandina*, (*Condamennia*) and *Cresspilla* have succeeded better

Here all species of crown bark thrive better than at lower elevations. than on any other of our plantations, that is,

the plants have grown more robust and luxuriant, and this even on the most exposed parts of the

The important fact is established that these species may be successfully cultivated all over the plateau of the Neilgherries. plantation, and the important fact is now established,

Thus opening an extensive field for enterprise. that these three species can, with ordinary care and skill, be successfully cultivated over the

And places cultivator in healthy and in invigorating climate. whole of the plateau of the Neilgherries, thus opening out an immense field for the development

9. Forming an opinion on our experience up to the present time, the elevations best suited to the growth of the different species of *Cinchona* appears

C. Succirubra grows at elevations from 3,000 to 6,000 feet. to be in this latitude for the *Succirubra* from

The most hardy of all the species. 3,000 to 6,000 feet, probably thriving best at altitudes from 4,500 to 6,000. This is perhaps

the hardiest species in cultivation bearing, without material injury, greater extremes of heat and cold than any of the other species yet introduced.

5,000 feet the best elevation for *C. Calisaya* or yellow bark. 10. *C. Calisaya* thrives best at an elevation

of about 5,000 feet, it appears not to bear a high temperature, although in the Wynaad District it grows at 3,000 feet.

Grey barks thrive best at elevations of about 4,500 to 6,000 feet. 11. The *C. Peruviana*, *Nitida*, and *Micrantha* grow well at elevations of 4,500 feet, and in sheltered localities at 6,000 feet.

Crown barks at elevations from 7,000 to 8,500 feet. 12. *C. Officinalis* and its varieties flourish best at elevations from 7,000 to 8,500 feet; it makes rapid perpendicular growth at lower elevations, but is not so robust and luxuriant.

Makes more perpendicular growth at lower elevations, but is not so robust.

Two plants of *C. Lancifolia* Pitayo bark planted out at an elevation of 7,600 feet appears to require the same elevation as the crown barks.

Results obtained by private planters in the cultivation of *Cinchona*.

varied results: the efforts of some being highly successful, while others met with comparative failures; among the most unsuccessful attempts may be mentioned those of Professor Lees and M. deFacien.

In the first instance great loss of plants sustained by Professor Lees and M. deFacien. Experience suggested a remedy and now successful.

intendent that his plants are now doing well, and that he is propagating them at the rate of 200 per mensem. Mr. deFacien also writes that his plants "are, since the shade has been removed, growing as they never did before."

Successful also in North-West Provinces.
Mahableshwur, Belgaum, and Honore.
Darjeeling.
Assam and Cachar.
Wynaad.

On the eastern slopes of the Neilgherries.
In Coorg and Nuggur the cultivation most successful and encouraging.

31,000 *Cinchona* plants supplied from Ootacamund to every District in India suitable to their growth.

from Mr. Mulally that the plants he received have made great progress. In Coorg and Nuggur, the success seems to be general, and several Planters there contemplate embarking largely in the cultivation. It will be observed that in little more than two years, upwards of 31,000 *Cinchona* plants have been supplied from Ootacamund to every District in India considered suitable to their growth.

Prospects of the spread and increase of *Cinchona* cultivation.

Inducements to cultivate *Cinchona* in preference to other products.

on in a healthy climate: the plants when once established are easily managed, the preparation of the bark is much more simple than that of the manipulation of Tea, and after three years' growth the plantations can be maintained at little cost. These advantages are sufficiently understood and recognized to induce a number of cultivators to enter the field, consequently the applications for plants have been numerous, many of these however to the extent of upwards of 50,000 plants have lately been

Many speculators have undertaken the cultivation of *Cinchona*.

50,000 plants relinquished by applicants in consequence of difficulty in procuring land.

On application, informed it was reserved.

relinquished in consequence of the applicants being unable to procure the land they had selected, being informed that it was reserved. The loss of time and trouble thus incurred has had the effect of discouraging further applications, the more especially as an impression prevails that no forest land on the Neilgherries will in future be sold. I submit that this impediment may be removed by the reserved lands being marked on a map kept in the

Suggests that the lands reserved be marked on a map kept in the Collector's Office for reference.

Collector's Office for reference, this would facilitate the extension of *Cinchona* cultivation, as parties would then select unreserved land with a certainty of its being put up to auction three months after date of application. I make these remarks as all the lands on the slopes and on the plateau of the Neilgherries is well suited to the growth of the different species of *Cinchona*, and in a philanthropic, as well as revenue point of view, it seems desirable that all obstructions be removed, and every legitimate encouragement afforded to bring all available lands under cultivation.

All the lands on the Neilgherries suitable to the growth of *Cinchona*.

Desirable to remove impediments and encourage extension of the cultivation.

legitimate encouragement afforded to bring all available lands under cultivation.

17. In the preceding paragraph it has been stated that upwards of 50,000 *Cinchona* plants have been relinquished owing to the difficulty of procuring land, in consequence I am informed of an opinion that felling the forests on the Neilgherries causes a deterioration of climate and deficiency in the rainfall, which it is stated does not now extend so far into the Coimbatore District as formerly, owing to the forests on the Neilgherries having been felled for the cultivation of Coffee and other products. If this impression could be shown to be correct, it would be important to maintain the fertility of the Coimbatore District by preserving the natural forests on the Neilgherries. But, theory and observation, combined with experience of practical effects, prove this conclusion to be erroneous. The Neilgherries like other high mountain ranges

Influence of trees on rainfall and climate.

Forest land reversed in consequence of an impression that clearing the trees causes a deficiency of rain on the Hills and the Coimbatore District.

so far into the Coimbatore District as formerly, owing to the forests on the Neilgherries having been felled for the cultivation of Coffee and other products. If this impression could be shown to be correct, it would be important to maintain the fertility of the Coimbatore District by preserving the natural forests on the Neilgherries. But, theory and observation, combined with experience of practical effects, prove this conclusion to be erroneous. The Neilgherries like other high mountain ranges

Impression erroneous.

correct, it would be important to maintain the fertility of the Coimbatore District by preserving the natural forests on the Neilgherries. But, theory and observation, combined with experience of practical effects, prove this conclusion to be erroneous. The Neilgherries like other high mountain ranges

13. Of the *C. Lancifolia* only two plants have been tried at an elevation of 7,600 feet, these stood the cold of last winter without injury, and the species may probably be found to require the same elevations as *C. Officinalis* and its varieties.

14. Upwards of sixty persons have, in a greater or less degree, undertaken the cultivation of *Cinchona*, but, as was to be expected, with both of these gentlemen in the first instance lost nearly $\frac{4}{5}$ ths of their plants either in transit or in the nurseries. Experience however has pointed out a remedy, and I learn from Mr. Lees' Superintendent that his plants are now doing well, and that he is propagating them at the rate of 200 per mensem. Mr. deFacien also writes that his plants "are, since the shade has been removed, growing as they never did before."

15. In the North-West Provinces considerable success has been obtained, as also in Mahableshwur, Belgaum, Honore, and elsewhere in the Bombay Presidency. From Darjeeling, I learn that Mr. Fitzgerald received all his plants in excellent condition. From Assam and Cachar the accounts are varied. The Wynaad Coffee Planters have been generally successful with the plants forwarded to them, and on the eastern side of these hills a similar success has been gained. I learn

16. The cultivation is one in which Planters are eager to embark, as in fact it offers advantages which no other on the Neilgherries possesses. It promises a greater return on the capital invested than Coffee, while the cultivation can be carried out in a healthy climate: the plants when once established are easily managed, the preparation of the bark is much more simple than that of the manipulation of Tea, and after three years' growth the plantations can be maintained at little cost. These advantages are sufficiently understood and recognized to induce a number of cultivators to enter the field, consequently the applications for plants have been numerous, many of these however to the extent of upwards of 50,000 plants have lately been relinquished in consequence of the applicants being unable to procure the land they had selected, being informed that it was reserved. The loss of time and trouble thus incurred has had the effect of discouraging further applications, the more especially as an impression prevails that no forest land on the Neilgherries will in future be sold. I submit that this impediment may be removed by the reserved lands being marked on a map kept in the Collector's Office for reference, this would facilitate the extension of *Cinchona* cultivation, as parties would then select unreserved land with a certainty of its being put up to auction three months after date of application. I make these remarks as all the lands on the slopes and on the plateau of the Neilgherries is well suited to the growth of the different species of *Cinchona*, and in a philanthropic, as well as revenue point of view, it seems desirable that all obstructions be removed, and every legitimate encouragement afforded to bring all available lands under cultivation.

generate and are covered by a cold stratum of air which condenses the moisture contained in the warm atmosphere in its passage from the sea; hence, if our hills were 4,000 feet lower, the temperature of the stratum of air would be increased, consequently its condensing powers reduced, and thus the rains at Coimbatore would be nearly as copious during the western monsoon as on the Malabar Coast. On the contrary were the Neilgherries 7,000 feet above their present elevation, then not a drop of rain would pass over the hills, as every particle of moisture in the heated air from the sea would be precipitated by coming in contact with a freezy atmosphere, in this case not only Coimbatore, but the whole of the eastern side of the Hills would be devoid of rain, while torrents would fall on the western face, as exemplified in many parts of the Andes and the Himalayas; in short the same effect takes place in a greater or less degree on all mountain ranges according to their elevation. On the sea face of the Scandinavian Alps, there is an annual rainfall of 80.12 inches, while on the other side the mean annual fall is only 20 inches.

Examples.

18. That trees do exercise considerable influence on the rainfall is undoubted, as, by offering a large evaporating surface, they increase the cold stratum of air which causes condensation. In this way they aid more effectually to wring the clouds of moisture in their passage over the Neilgherries. Hence it is evident that the more abundant the trees on the Neilgherries, the more effectually is the Coimbatore District deprived of the western rains.

Trees increase rainfall by increasing cold stratum of air.

More effectually deprive clouds of moisture in passing over the Neilgherries.

The more trees on the Neilgherries the less rain at Coimbatore.

19. Evaporation is in fact the principal cooling agent on the globe, being always in proportion to the amount of exposed surface. Suppose, for example, a tree of 45 feet in height covering 100 square feet of the surface of the ground, this tree will, at the lowest calculation, present an evaporating surface of at least 8,000 square feet, as evaporation goes on from every leaf and green shoot, and unless under very dense shade, the evaporation and radiation from the 100 square feet of ground it covers would not be entirely destroyed, thus a tree increases 80 times the evaporating surface, and would perspire from two to three times the amount of water that would be evaporated from the ground were the tree felled, as the average evaporation from the surface of a leaf is only $\frac{1}{25}$ th part of that from a similar surface of moist ground, and $\frac{1}{10}$ th from the same surface of water, all being under the same relative conditions. However, as the air becomes charged with moisture, evaporation from the surface of the leaves becomes less active, and ceases entirely at saturation, when another function directly the reverse commences; the leaves now beginning to imbibe moisture.

Evaporation great cooling agent.

A tree of 45 feet in height covering 100 square feet of ground adds 80 times to the evaporating surface without completely destroying the evaporation from the ground it covers.

and unless under very dense shade, the evaporation and radiation from the 100 square feet of ground it covers would not be entirely destroyed, thus a tree increases 80 times the evaporating surface, and would perspire from two to three times the amount of water that would be evaporated from the ground were the tree felled, as the average evaporation from the surface of a leaf is only $\frac{1}{25}$ th part of that from a similar surface of moist ground, and $\frac{1}{10}$ th from the same surface of water, all being under the same relative conditions. However, as the air becomes charged with moisture, evaporation from the surface of the leaves becomes less active, and ceases entirely at saturation, when another function directly the reverse commences; the leaves now beginning to imbibe moisture.

Leaf evaporates $\frac{1}{25}$ th part of water raised from the same surface of moist ground, and $\frac{1}{10}$ th part of that raised from the surface of water.

same relative conditions. However, as the air becomes

When the air becomes saturated, evaporation ceases, and leaves imbibe moisture.

20. From the above point of view, it is obvious that trees exercise considerable influence on the rainfall and deposit of dew. But there exists another and counterbalancing effect too frequently overlooked, which makes trees in a climate like ours a far greater drain on the moisture than they prove a source of supply. It has been shown that trees by expending moisture (evaporation) convey

In wet weather trees increase rainfall and deposit of dew.

In dry weather a counterbalancing agency at work making trees a far greater drain on the springs of the Neilgherries than a source of supply.

to the air the power (cold) of condensing moisture; hence, it becomes an object of enquiry to ascertain how far the waste exceeds the supply gained by this process, especially on these hills where we have about three months of continuous clear weather, and dry atmosphere with a difference of from 8° to 13° Fahrenheit between the wet and dry bulb thermometers. Here large extents of evaporating foliage throw off daily an enormous quantity* of moisture, drawn from a depth of the soil so far as the roots penetrate, this moisture which would otherwise have supplied the springs, is thrown off by the leaves into the dry and arid atmosphere where it is dissipated and driven by currents of air into higher latitudes.

Trees draw the moisture they evaporate from considerable depth, and thus intercept its passage to the streams.

have supplied the springs, is thrown off by the leaves into the dry and arid atmosphere where it is dissipated and driven by currents of air into higher latitudes.

Is dissipated never to return.

* "Vegetable Statistics" by Doctor Hales, quoted in Lindley's "Introduction to Botany," Volume II, pp. 288, 289, 291.

"July 3rd, 1824, in order to find out the quantity imbibed and perspired by the sunflower, I took a garden pot with a large sunflower, 3½ feet high, which was purposely planted in it when young. I covered the pot with a plate of thin milled lead, and cemented all the joints fast, so as no vapour could pass, but only air, through a small glass tube nine inches long, which was fixed purposely near the stem of the plant, to make a free communication with the outward air, and that under the leaden plate. I cemented also another short glass tube into the plate, two inches long and one inch in diameter. Through this tube I watered the plant and then stopped it up with a cork. I stopped up also the holes at the bottom of the pot with corks. I found the greatest perspiration of twelve hours in a very warm dry day to be one pound fourteen ounces, the middle rate of perspiration one pound four ounces. The perspiration of a dry warm night without any sensible dew was about three ounces."

"From July 3rd to August 3rd, I weighed for nine several mornings and evenings, a middle size cabbage plant, which grew in a garden pot, and was prepared with a leaden cover as the sunflower. Its greatest perspiration in twelve hours was one pound nine ounces, its middle perspiration one pound three ounces, 32 cubic inches.

Tree covering 100 superficial feet of surface evaporates 6 cubic feet of water every warm and dry day.

contain 433 of such trees, but reduce this number to 300, and it gives a daily evaporation from every acre of forest of 1,800 cubic feet, or the enormous quantity of upwards of 11,000 gallons; yet, incredible as this may appear, it does not represent one-half the moisture thrown off daily by an acre of forest on the Neilgherries during the months of January, February, and March. In each year the

In 150 clear and dry days in the year, upwards of a million and a half gallons of water dissipated by every acre of forest.

Practical effect apparent on the streams and springs.

enormous is very apparent on the springs and streams on the Neilgherries, as all springs arising in, and passing through, valleys destitute of trees, maintain their flow throughout the dry season far better than those which arise in, and pass through, wooded valleys; it being obvious

that the roots of the trees intercept and drink up the water in its descent through the soil to the streams. Many extraordinary convincing proofs

Many convincing examples to be met with on the hills.

An example in the stream which supplies the Government Gardens.

tion, the flow of water in the stream during the last excessively dry season was fully twice as much as prior to the forest being felled.

22. The foregoing favours the opinion that if the Neilgherries were destitute of forest, the streams

Neilgherries destitute of trees, twice as much water would flow to the low country during the dry season.

cannot be overlooked, they improve the soil on which they grow, render the temperature more equable, reduce the violence of storms, afford shelter and shade very grateful to man, and their presence gives emanations are highly beneficial to animal life. These advantages apart from their economical uses require (so far as is consistent with general cultivation) the presence of trees in every locality where they can be produced.

Advantages of trees.

a pleasing effect to the eye, while their gaseous emanations are highly beneficial to animal life. These advantages apart from their economical uses require (so far as is consistent with general cultivation) the presence of trees in every locality where they can be produced.

23. In the above observations the important fact has not been taken into consideration, that the

Object of foregoing remarks.

except for firewood, and that planting Cinchonas would be substituting valuable for worthless trees. My object in introducing this subject is to show the reservation of the natural forests to be unnecessary so far as they affect the local rainfall and that of the Coimbatore District.

To show the reservation of natural forests, fails to increase rainfall.

24. The treatment described in previous reports and "Notes on cultivation, 6th March 1863,"

Cultivation. Modification of former treatment.

propagation. In transplanting from the propagating houses into the nurseries, a modification has been found necessary. In order to enable the plants to

Transplanting plants in nurseries.

of moss is introduced under each line of plants. A. represents a transverse section of the nursery bed

with moss B. introduced, C. being the longitudinal section. The manner in which the plants are planted being the same as described in paragraph 26, it being essential to success not to catch the

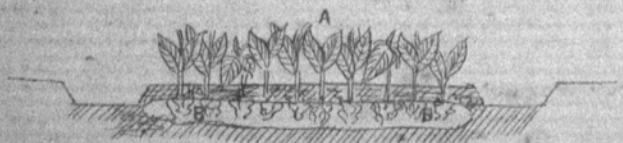
Roots must not be handled. roots of the plants in the hand, as the least bruise destroys them, therefore the plants should invariably be lifted by the leaves.

NURSERY BEDS.

LONGITUDINAL SECTION SHOWING THE ENDS OF THE MOSS UNDER THE SOIL.



TRANSVERSE SECTION SHOWING THE LINES OF MOSS.



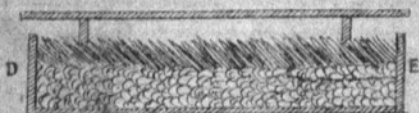
25. In permanently planting out, the distance apart has been reduced from 10 and 12 feet to 6 and 7, and a modification of our former method of planting has also been found necessary. In

Permanently in the plantations.

order to facilitate this operation, the plants when removed from the nurseries, beds, or pots are laid in a deal box in nearly a horizontal position between thin layers of moss, beginning to fill the box at D. and finishing at E., in this way from 1,000 to 2,000 plants are placed in each box, and carried by one or two men from the nursery ground to the planters, where the box is placed in the centre of the line between the planters in order that it may be conveniently moved along as the operation proceeds. The planters remove the plants one at a time beginning at E., and continue this operation until the box is emptied.

Removing plants from nurseries to plantation.

SECTION OF BOX FOR CONVEYANCE OF PLANTS FROM NURSERIES TO PLANTATIONS, THE COVERING BEING RAISED ABOUT 2 INCHES ON CROSS BARS TO ALLOW A FREE CIRCULATION OF AIR OVER THE TOPS OF THE PLANTS, WHILE IT SHELTERS THEM FROM THE SUN.

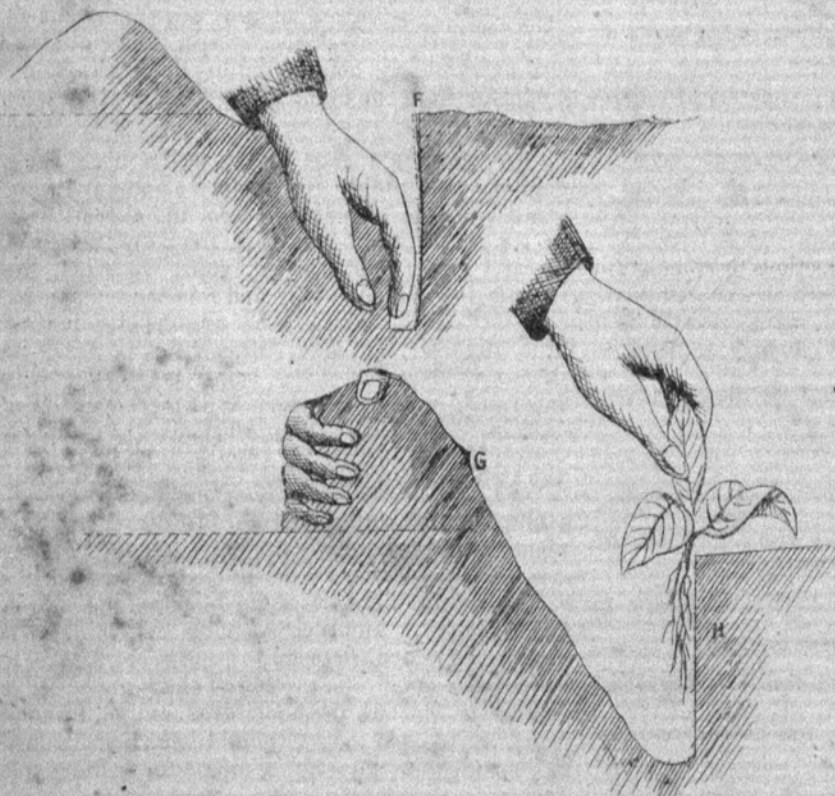


26. Each plant is lifted from the box by catching the leaves between the forefinger and thumb of the left-hand, while with the right-hand

Manner in which they are planted.

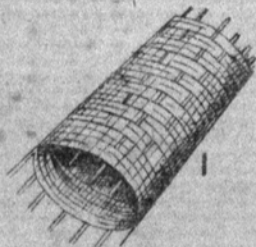
the roots are freed from any obstruction, it is then carried to the spot where intended to be planted, the right-hand being thrust into the soft prepared

soil in a sloping direction, and gently raising the back of the hand to the dotted line shown at F., the earth is then drawn forward as at G., leaving a straight bank behind the hand at H., the plant is now placed by the left-hand against the face of the bank, the collar or top of the root being held on a level with the ground, the roots are now spread out with the right-hand and the hole deepened should the length of the roots require it, the earth from G. is then brought forward with the right-hand against the roots, but not pressed, and thus the operation of planting is completed, in this way a man can plant from 400 to 500 plants daily.



27. The young plants immediately after being planted (instead of being sheltered as formerly by a screen made by bamboo branches) are covered by a cylindrical basket open at both ends, 12 inches in diameter and 14 inches long as at I., made out of the common whattles so plentiful on these hills, one man making from 8 to 10 of such baskets daily, this is found the most efficient as well as the most economical way of protecting the plants, as when they are established, the baskets can be removed and are available for further use.

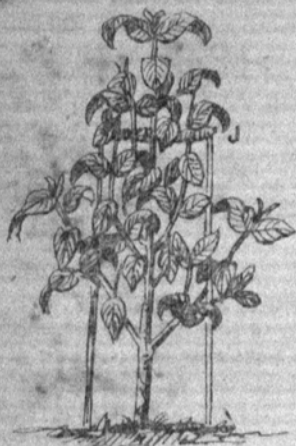
And shaded.



Method of shading plants.

protecting the plants, as when they are established, the baskets can be removed and are available for further use.

28. It has been found that the plants when staked in the usual way are injured by the tie cutting into the bark, to remedy this, one or two stakes are placed on opposite sides at a distance of about 12 inches from the plant and a hoop formed of rattan covered with moss for large, or willow twigs for small, plants is placed around the branches and tied to the stakes at both ends when avoided.



Adopted method for small, plants is placed around the branches and tied to the stakes at both ends when avoided.

two are used as at J. In stormy situations and steep lands, it would appear desirable, instead of staking, to secure the plants to the ground by bending them forward and pegging them against the face of the hill, the plants would then throw up numerous shoots, and these shoots would protect each other from the force of the wind.

29. Cultivation under living trees has been entirely abandoned, the plants having been found to suffer from the effects of the drip and want of light, while the roots of the trees in the neighbourhood penetrate the holes and draw up all the nourishment from the young plants; they are also liable to damage from the branches as well as the trees being broken and falling during storms.

30. Partially cleared forests have also been found quite unsuited to give shelter, as the high gales of wind being caught by the tops of the trees are driven down in strong eddies, as the current from the top of one tree meets that from another, and thus twists the plants in all directions producing much greater injury than a steady gale. In short, the more exposed the situation in which the plants are growing, the more healthy and robust they appear, although they do not attain so rapid growth as in more sheltered localities, thus establishing beyond all doubt that the more the plant is exposed to light and air, the more perfectly it performs its functions, thus the juices being more effectually elaborated, we may expect a large proportion of alkaloid, which may counterbalance the comparative slower growth.

31. The large leaved species of Cinchona (red and grey barks) suffer considerably from high winds, especially when young, the leaves are frequently blown to pieces, and occasionally in very exposed situations the branches are broken, and the plants twisted out of the ground. As the plants grow older, their leaves become smaller and consequently not so much affected by the wind; the yellow and crown barks do not suffer so much from storms, their leaves being much smaller, they are however occasionally injured in heavy gales. The storms of hail so frequent here in March and April, although productive of temporary damage by cutting the leaves, yet the plants have not materially suffered from this cause.

32. During continuous wet weather the leaves assume a yellow tint, and become contracted around the margin towards the under surface, causing rough undulations in the texture of the leaf along the midrib and between the lateral veins. It also induces a succulent and unhealthy condition of the plant, in some instances causing an unnatural development of pith, rendering the plant liable to disease, 25 plants having died from the effects of the continued rain of last season. The grey barks suffer most from the constant stream of water thrown down their channelled leaf stalks, communicating rot to the bark which occasionally penetrates to the stem, and thus permanently injures the plant. The heavy rains have been found to carry down a large quantity of earth, which covered the plants and caused much time to be occupied in its removal; this has been effectually obviated by a system of surface drains.

33. As observed by early writers, "the condition of showers and sunshine" has proved most favorable for the growth and full development of the Cinchona under cultivation. The plants however when established bear a considerable amount of drought without injury. During the first two

months of last severe dry season, the plants maintained their growth and healthy appearance, the drought then began to make itself felt, the leaves of the plants assuming by degrees the contracted form and yellow tint as during the continuous rains. After three months' continuous drought a few of the plants on the more exposed parts of the plantation began to droop, in a few days this tendency increased, and on the 98th day it became necessary to water the plants by the hand. These were plants of one year's growth, and probably plants of two years' growth, in good soil, would bear greater drought without injury.

98 days of continuous drought necessary to hand water young plants.

34. In collecting our samples of bark, lopping the branches or cutting down the plants to within a few inches of the ground has been found the most advantageous. Removing the bark in strips from the stems of the plants has been discontinued, for although new bark is formed over the spaces, it is not until more or less decay has been communicated to the wood, and thus the stems are prevented from expanding.

Gathering the bark and treatment of plants for this purpose.

Removing bark in strips, injures growth of plants.

35. The plants of "red," "grey" and "yellow" barks cut down between March and August have uniformly thrown strong shoots from the stools, these shoots have grown with great vigour, and this may be found a profitable way of treating the plants, particularly in exposed situations, as the number of shoots thrown from the stools afford mutual protection.

"Red," "grey," and "yellow" barks throw out shoots from the stools when cut down between March and August.

36. It is however important to note that of the plants cut down between September and February (although of the same species) not one in five threw shoots from the stools; of these plants two retained life for a few days then gradually died away. The varieties of "crown" barks however form an exception, as they throw shoots at any season.

37. From the above it is obvious that if the harvest of bark is to be obtained by cutting down the plants in the dry season or between December and March, they must be prepared during the preceding wet weather, as described and illustrated at paragraph 21, Plate VI in "Notes on cultivation, &c., dated March 1863."

Lopping and pruning adopted, species readily produce fresh branches.

38. When the system of lopping and pruning is adopted, all the species are found readily to produce fresh branches at any season of the year.

39. On the 4th of April 1864, I received from Mr. Markham, of the India House, a small packet of seeds of *C. Pitayocosis*, these were sown on the same day; a large packet received on the 20th idem, through the Government, were also sown on their receipt, and I regret to add that up to the present date not one seed has germinated, and fear there is now no hope of their doing so. This is much to be regretted, as the species is one of great value, and although we possess the *C. Lancifolia* from Java a Pitayo bark, yet there being three varieties, the *Lancifolia* may not be the most valuable kind, it is therefore desirable that another attempt should be made to procure fresh seeds of these plants.

40. Mr. Cross* collected the seeds in July and August 1863, and conveyed them to the port of Guayagnil, with the intention of forwarding them to Mr. Markham. By some mistake the sum which Mr. Cross was to have received for collecting the seeds had not reached Her Majesty's Consul, this gave offence, and Mr. Cross returned carrying the seeds with him into the interior of the country. After a delay of five months, and in compliance with the entreaties of Mr. Markham, the seeds were ultimately despatched, apparently after having lost their germinating powers.

* EXTRACTS FROM MR. CROSS' LETTERS:—

Bogoda, September 16th, 1863.

"There are three varieties of Pitayo Cinchona, white, yellow, and red, of which the latter is by far the finest and most valuable, having actually in several instances yielded five per cent. of sulphate of quinine. It rarely falls below 3 per cent., but its general yield is $3\frac{1}{2}$ to 4. This variety has been much sought for, and at the time I write it scarcely exists. It is dug up, roots and all, whenever found. After searching through mountains, ravines, and wild broken ground near Popayan, I found a splendid clump owned by an Indian, and made a clean sweep of all the seeds that were on the trees. On returning to my encampment, I carefully dried the precious collection. I say precious, for neither I nor any one else can ever make a similar collection again, simply because the species will very soon be entirely annihilated. The Indian was about to dig up the roots of the clump, and when this is done the valuable species will be lost for ever. I have seen plants of this variety dug up in the surrounding forests whose stems were not thicker than a writing quill, but these are rarely to be met with, for the plant, as already stated, is nearly exterminated. On drying the collection, I found I had secured nearly a million and a half, a million of which I considered to be the finest seeds I had yet collected in the Andes."

January 20th, 1864 — "I believe the seeds to be as fresh for purposes of germination as the day they were collected on the Pitayo mountains. I send a few seeds in this letter, because I find I will not be able to get down in time for the steamer. The rest will certainly come by the following Mail. The seeds were well ripened, carefully dried, and have been carefully protected up to the present time. Give the seeds on the Neilgherries about the same temperature as the Loxa seeds until they germinate. Then treat them as hardly as possible. Care must be taken that this species does not get overloaded at the roots with moisture. It is the most rapid growing of all the Cinchonas and perhaps the best."

(Signed) CLEMENTS R. MARKHAM.

41. The difficulties previously experienced in procuring efficient men has been severely felt this year, in consequence of the number of Coffee and Tea plantations lately opened in the neighbourhood (no less than 36 having been commenced within the last eighteen months), many of our best men have left either to open plantations for themselves, or to fill situations where greater inducements are offered. Mr. Batcock, the Deputy Superintendent, has given great satisfaction in carrying out the work entrusted to his charge. Lieutenant Nichol, recently placed in charge of the Neddivuttum plantations, has shown energy and activity in pushing forward the operations. I have, also reason to be satisfied with the diligence and care shown by Mr. Smith, Assistant Superintendent of the Dodabetta plantation. Overseers Burrows, Ramsey, and Wilkinson have been attentive and careful in conducting the work. In the office Establishment Narainsawmy Naidoo and Mr. McNair has given every satisfaction in the performance of their duties as Pay Clerk and Accountant.

42. A range of hardening pits has been added to our propagating departments, which affords shelter for 75,000 plants, and these with the five propagating houses described in previous reports give ample appliances for the production of between 20,000 and 30,000 plants monthly. The total number of plants produced up to 31st May 1864 being 4,16,909, of this number 31,662 have been distributed to the public. Extensive nurseries have been formed on the different plantations for the accommodation of the plants produced during the current year, in all sufficient to contain 3,50,000.

Establishments.
Progress of operations.
Propagation and nurseries.
4,16,909 plants propagated.
31,662 plants distributed to the public.
Nurseries formed for 3,50,000 young plants.

43. On the Neddivuttum plantations, it has been found necessary to renew several of the temporary buildings for the coolies; the wood covering the drains and culverts formed in 1862, have been renewed and re-placed by stones; the surface drains on the Denison plantations widened and increased in number, in order to prevent the severe wash occasioned by the heavy rain of last monsoon; there 220 acres are already planted, roads, drains, trenches, &c., finished; on the 1st Denison plantation the plants have attained considerable size, and promise to rise rapidly into a luxuriant forest. On the Markham plantation, the plants have only recently been planted and are necessarily small; 205 additional acres have also been cleared and are in a forward state of preparation for planting, the earth-work of the roads and bridges completed, though here and there interrupted by rocks which are being removed; the propagating house on this plantation has been extended, and affords sufficient space for 20,000 cuttings.

Neddivuttum plantations.
220 Acres planted; roads, drains, &c., finished.
205 additional acres cleared and in a forward state of preparation for planting.

44. On the Wood plantation at Pykara, the work has not made such satisfactory progress, owing to the difficulty in obtaining an efficient Assistant. Here, however, 165 acres of land have been more or less prepared, of which 8 acres only have been planted. The permanent buildings finished, and comfortable lines for coolies erected.

Wood plantation at Pykara works made less progress.
165 acres more or less prepared.
8 acres only planted.

45. On the Dodabetta plantations, the work has progressed satisfactorily, 95 acres being planted and 60 additional acres in progress, here upwards of 500 acres have been enclosed with a trench, and 11,000 yards of road cut intersecting this extent of land, the object in cutting these roads prior to planting being to facilitate the removal of the firewood and thus increase its market value. The wood has realized Rs. 5,050, and paid to the credit of the Forest Department.

Dodabetta plantations, 95 acres planted.
And commenced on 60 additional acres.
Total extent of 500 acres enclosed by a trench.

46. In opening the new plantation on the Koondahs, great difficulty has been experienced in pushing forward the operations, owing to the want of roads; here 160 acres have been felled, of this 75 acres have been lopped and burned, and is at present in course of preparation for planting; completed, and a contract entered into for making the road, I therefore trust shortly to be able to procure sufficient labor to complete the permanent buildings.

New plantation on Koondahs.
160 acres felled.
75 lopped and burned.
Temporary buildings finished.

47. In the Botanical Gardens the prevailing scarcity of labor has been much felt, especially towards the end of the year, notwithstanding considerable improvement has lately been effected. Between the upper and lower gardens an ornamental piece of water has been formed enclosed by a revetment wall raised so as to form a parapet to the adjoining terrace, this terrace is in the form of a crescent, and is now being laid out into parterre, with a band-stand in the centre and three fountains on each side. In the upper portion of the garden three fountains have been erected and are working well, here also parterres and ornamental vases have been introduced, and the whole made as attractive as possible by planting with choicest flowers and shrubs. In the lower garden a labyrinth has been formed on the

Botanical Gardens.
Improvements effected.

plan of that at Hamton Court, the hedges of Rose floire de Rosamere and Blairii, here also an ornamental piece of water has been added ; in this portion of the garden plants suffer much from the attacks of the grubs of the cockchafee, rendering it difficult to secure that luxuriance of vegetation which prevails in the upper garden.

48. During the year many valuable plants have been added to our collection. To His Excellency Sir William Denison, Governor of Madras, we are indebted for the very valuable Araucarias Bidnellii and Cookii, the beautiful Clianthus Dampierii, the twelve varieties of Australian grapes, and numerous seeds of valuable timber trees as Encalypti, Acacias, &c., and to Mr. Lascelles for the Cupressus Macrocarpa, Dammara Brownii, and a few species of unnamed Japan Conifera. From Dr. Anderson, of the Calcutta Botanical gardens, Podocarpus longifolia; to Messrs. E. B. Thomas and E. Thomas for a collection of European fruit trees and shrubs; to Mr. J. D. Sim for Amherstia Nobilis Stigmaphyllon Ciliatum, Meyenia erecta, and the white variety of Lagestriemia Indica; to Major Hutton for four fine varieties of Fuchsia and a few British forest trees; to Mrs. Arbuthnot for numerous ornamental plants, and to Dr. Birdwood, of Bombay, for Strelitzia Augustifolia.

Distribution. The following table exhibits the distribution of garden plants, seeds, &c., for 1863-64 :—

MONTHS.	Fruit trees and shrubs.	Timber trees.	Shrubs and flowers.	Collections of seeds.	Amount.
1863.					Rs. A. P.
May	...	74	...	19	186 4 0
June	53	10	38	17	139 0 0
July	77	56	138	23	248 1 0
August	86	33	58	33	246 1 6
September	44	47	134	34	217 15 6
October	168	5	250	15	288 3 6
November	6	22	202	17	138 4 0
December	...	122	165	12	117 0 0
1864.					
January	...	...	...	1	1 14 0
February	...	...	3	2	3 10 0
March	...	...	9	11	45 14 0
April	50	245	343	2	152 2 0
Total Distribution...	484	614	1,340	186	1,784 5 6

49. From the above observations, it will be observed that during the past official year, we have made great progress, still the scarcity of labor has been severely felt, rendering it difficult to perform the different operations at the proper seasons. In conclusion, I beg to tender my grateful acknowledgments to His Excellency Sir William Denison, Governor of Madras, for the liberality with which he has met every suggestion tending to facilitate the progress of this important undertaking. To Mr. Markham, of the India House, my best thanks are due for much valuable assistance, and the deep interest he has evinced in the progress of the Cinchona plantations, also to Mr. Howard, for the very important information he has so liberally furnished on the formation of alkaloid in the bark.

OOTACAMUND, }
7th July 1864. }

(Signed) G. W. McIVOR,
Supdt., Govt. Cinchona Plantations.

A.
Estimated cost of each Cinchona Plantation from commencement of operations to 30th April 1864.

PARTICULARS.	Superintendent and Writer Establishment.			Nursery Department.			Dodabetta Plantations.			Neddivittum Plantations.			Pykara Plantations.		Malah Koondah Plantations.	For the Plantations of 1864-65.	TOTAL.	
	1861-62.	1862-63.	1863-64.	1861-62.	1862-63.	1863-64.	1861-62.	1862-63.	1863-64.	1861-62.	1862-63.	1863-64.	1862-63.	1863-64.	1863-64.	1864-65.		
Operations preparatory to receipt of plants.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		
Grant for the preparation of sites...	2,000																	
Establishments ..	4,200	5,350	5,880	3,324	4,305	4,609	2,280	5,400	5,700	5,064	8,412	15,348	1,530	4,033				
Buildings ..				1,200			560			2,080			2,000		4,000			
Tool and Store-rooms				2,000									250					
Coolies' quarters..								250		250								
Felling ..							200	500		1,000	1,000		1,000		125			
Clearing ..							400	1,500		1,500	3,000		1,500		500			
Pitting ..							280	1,500		1,500	3,000		1,500		6,150			
Carriage of plants							400	1,500		2,000	3,000							
Planting and Shading							150			450	450							
Trenching ..							200	500		550	550							
Enclosing ..							1,800			4,000				1,300				
Road-making ..				756				5,850		3,900				8,000				
Tools ..								2,025		1,520				750				
Contingencies ..								1,200		1,282				1,350				
				196			399	1,200		2,003	1,831			2,046				
Total ..	2,000	4,200	5,350	5,880	7,476	4,305	4,609	6,669	21,425	5,700	27,099	21,243	15,348	7,780	18,761	9,312	6,250	1,73,407

(Signed) W. G. McIVOR,
 Supdt., Govt. Cinchona Plantations.

OOTACAMUND, }
 7th July 1864. }

A.
Actual expenditure on each Cinchona Plantation from commencement of operations to 30th April 1864.

PARTICULARS.	Operations pre- paratory to receipt of plants.			Superintendent and Office Establishment.			Propagation and Nursery Departments.			Dodabetta Plantations.			Nuddivittum Plantations.			Pyara Plantations.			Malah Koondah Planta- tions.		TOTAL.		
	1860-61.	Rs.	A. P.	1861-62.	1862-63.	1863-64.	1861-62.	1862-63.	1863-64.	1861-62.	Rs.	A. P.	1862-63.	1863-64.	1862-63.	1863-64.	1862-63.	1863-64.	Rs.	A. P.			
Establishment	114	2	3	2,024	11	6	3,329	3,440	1,481	2,274	2,605	2,910	0	0	6,195	5,874	...	1,608	...	47,981	13	9	
Buildings	2,647	0	0	3,578	3,000	865	1,560	0	0	...	1,000	350	...	21,188	0	0
Tool and Store-rooms	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	500	...	...	...	...	...	...
Coolies' quarters	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1,750	1,000	...	...	...	...	...
Felling	302	5	3	...	...	...	...	...	...	...	...	1,780	7	3	1,500	2,200	2,000	2,000	502	...	...	...
Clearing	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1,500	2,200	1,125	...	...	...	...
Pitting	858	2,000	...	1,000	...	42,687	7	2
Carriage of plants	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	750	...	...	...	...	...	...
Planting and shading	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	900	...	...	...	...	...	...
Trenching	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	900	898	...	...	...	...	...
Enclosing	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1,972	1,780	...	...	...	...	...
Road-making	300	0	0	...	...	...	...	...	...	...	...	1,100	0	0	1,000	2,000	...	679	...	5,929	0	0
Tools	271	0	0	...	...	...	...	...	...	...	...	700	0	0	400	860	...	1,500	...	9,772	0	0
Contingencies	67	0	0	...	...	...	...	...	...	...	...	340	0	0	915	850	...	400	...	5,029	0	0
Total	1,054	7	6	4,671	11	6	6,907	6,440	5,760	9,688	10,315	11,351	1	11	19,790	22,812	5,688	11,367	4,477	1,36,343	4	11	

(Signed) W. G. McIVOR,
Supdt., Govt. Cinchona Plantations.

OOTACAMUND, }
 7th July 1864.

B.

Meteorological observations from 1st May 1863, to 30th April 1864, made on the Government Cinchona Plantations at Neddivittum.

MONTHS.	Mean monthly temperature.	Mean daily range.	Maximum observed during the month.	Rain-fall in inches.	Days without rain.	Days with rain.
1863. July	62°·5	12°·6	76°	15·46	5	26
August	64°·6	16°·3	74°	23·77	9	22
September	66°·5	15°·6	80°	5·59	9	21
October	66°·0	17°·3	82°	10·47	14	17
November	70°·0	23°·0	89°	0·50	26	4
December	80°·4	27°·0	92°	1·95	26	5
1864. January	65°·7	28°·0	85°	0·52	30	1
February	69°·6	28°·0	87°	.....	29	0
March	72°·1	29°·4	90°	0·38	29	2
April	71°·4	22°·5	99°	2·80½	18	12
Annual	68°·8	21°·9	84°·5	61·44½	196	110

The readings in this Table are high in consequence of the sun occasionally striking on the board upon which the Thermometers are placed.

OOTACAMUND,

7th July 1864. }

(Signed)

G. W. McIVOR,

Supdt., Govt. Cinchona Plantations.

C.

Meteorological observations from 1st May 1863, to 30th April 1864, made at the Government Gardens, Ootacamund.

MONTHS.	Monthly mean of dry bulb thermometer.	Monthly mean of wet bulb thermometer.	Due point of monthly means.	Maximum observed during the month.	Greatest daily range.	Rain-fall.	Days without rain.	Days with rain.
1863. May	62°·5	60°·8	59°	78°	23°	5·98	13	18
June	58°·7	58°·0	58	73	18	3·99	14	16
July	57°·8	56°·7	56	72	18	1·49	16	15
August	59°·1	58°·5	56	71	17	3·58	16	15
September	58°·9	57°·6	56	72	24	2·16	14	16
October	58°·1	*57°·1	56	72	23	8·45	14	17*
November	56°·4	54°·8	53	70	22	1·86	22	8
December	56°·3	53°·2	51	71	26	2·38	24	7
1864. January	55°·0	51°·0	47	73	31	.....	31	0
February	58°·0	52°·0	48	76	28	.....	29	0
March	62°·0	55°·0	50	80	30	0·8	30	1
April	59°·0	57°·0	56	77	26	8·18	13	17
Annual	Mean 58°·5	Mean 55°·9	Mean 53°·8	Mean 73°·7	Mean 23°·8	Total 38·17	Total 236	Total 130

South-west monsoon commenced on the 31st of May 1863.

* On the 26th of October 1863, and two following days, rain most excessive and gauge overflowed, a calculation from a quarter of an hour's reading on the morning of the 20th, gave 4 inches, 56 cents., as the rain of the preceding night which was probably below the correct amount. This amount is omitted in the monthly total.

OOTACAMUND,

7th July 1864. }

(Signed)

W. G. McIVOR,

Supdt., Govt. Cinchona Plantations.

Order thereon, 9th February 1865, No. 273.

1. The Governor in Council considers the foregoing report of the progress of the Cinchona plantations during the official year 1863-64, to be extremely satisfactory. The season was an unusually trying one, the drought being so long continued that it became necessary to resort to watering by the hand, yet the plants made good progress.

2. The propagation has been more successful than in previous years, the monthly average having been 15,326 plants, and the maximum, in February 1864, 324,408. The total number of plants produced up to the 31st May 1864 has been 416,909, of which 31,662 have been distributed to the public.

3. The extent actually planted out in the different Government plantations is stated to be 323 acres.

4. The first plants were permanently planted out at Neddivuttum in August 1862, and have, in the twenty months which have since elapsed, "attained heights varying from six to nine feet, with thick stems, well furnished with lateral branches, and presenting as robust and healthy an appearance as could be wished." This growth is said to be about three inches in excess of the average of the same species (*C. Succirubra*) throughout the plantations.

5. The results of the year's analysis of the bark is also highly encouraging, the yield of rough alkaloids having been six per cent., while in the previous year it was only 4.3.

6. There can no longer be room for doubt as to the successful introduction of the *Cinchona* on the Neilgherries, and the extraordinary success which has attended its culture, whether regard be had to extensive propagation, rapid and healthy growth, or the rich production of alkaloids.

7. For these results the Government are indebted to Mr. McIvor, whose able and zealous exertions in this important enterprise merit the highest praise.

8. The total expenditure up to the 30th April 1864 has amounted to Rupees 1,36,343, under the following heads:—

	Rs.
Buildings	21,188
Plantations	58,388
Tools	5,029
Establishment... ..	47,952
Contingencies... ..	3,756

9. The progress of the different plantations appears to be as follows:—

At Neddivuttum 220 acres have been planted out, with roads, drains, &c., completed; 205 acres are in a forward state of preparation for planting, and the earth-work of the roads and bridges completed. The propagating house has been extended, and affords space for 20,000 cuttings.

At Pykara 8 acres have been planted out; and 165 more or less prepared; the permanent buildings and cooly lines have been finished.

At Dodabetta 95 acres have been planted; 60 acres are in progress; 500 acres have been enclosed with a trench; and 11,000 yards of road cut.

At the Koondahs (sanctioned only in December 1863) 75 acres have been lopped and burned, are in course of preparation for planting; 85 acres have been felled; and cooly lines and temporary buildings erected.

A range of hardening pits, affording shelter for 75,000 plants, has been added to the propagating houses, and there are thus ample means for producing from 20,000 to 30,000 plants monthly. Extensive nurseries have also been formed on the different plantations.

10. This is a very satisfactory state of affairs.

11. The failure of the seeds of *C. Pitayensis* is much to be regretted, and will be brought to the notice of the Home Government, that efforts may be made to procure a further supply.

Paragraphs 9 to 13.
Do. 24 to 38.

12. The paragraphs marginally noted contain much valuable information as to the culture, &c., of the *Cinchona*, and will be separately printed uniformly

with the Manual to which they will be added.

13. The Government have already issued orders for the preparation of a list of reserved lands, so that intending planters may have the means of readily ascertaining what lands are, and are not, available. The impression, which is said to prevail, that no more forest land will be sold, is altogether without foundation; the extreme difficulty of obtaining competent Surveyors and the necessity, which the Law imposes, of advertising all lots for three months, necessarily cause delay in the transfer of land; but the Government are not aware of applications having been refused, on the plea of the land being reserved, so frequently as to afford ground for the impression stated. The Collector will report how many cases of refusal on this account have occurred during the last year. In order to avoid delay, the Government, it may be remarked, now allow lands to be sold prior to actual survey, on condition of the boundaries being carefully and permanently marked, and the purchase being subject to adjustment on the survey.

14. The Government do not deem it necessary here to discuss the subject of paragraphs 17 to 23 of Mr. McIvor's report. They will merely observe that Mr. McIvor's views are not those in general acceptance.

15. Mr. McIvor's account of the Botanical gardens is highly satisfactory. The Government consider it desirable that he should now prepare for publication a catalogue of the different trees, shrubs, &c., in the gardens.

16. In future reports the progress of the Tea plantation and nurseries of Australian trees should be specially noticed. The Government wish attention paid to the latter, and will continue to supply Mr. McIvor with seeds from Australia. The plants when grown can be sold to the public at a fair price, and furnished to the Forest Department for the Government Sholas. The commoner kinds of Australian trees, as the *Acacia Melanoxylon*, need not of course be raised by Mr. McIvor.

17. The Government note with satisfaction the testimony borne by Mr. McIvor to the services of Mr. Batcock, Lieutenant Nichol, Mr. Smith, and Overseers Burrows, Ramsay, and Wilkinson, and of his Office Assistants Narrainsawmy Naidoo and Mr. McNair.



The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, APRIL 15, 1865.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 7th April 1865, and is hereby promulgated for general information :—

ACT No. XIV OF 1865.

An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces : It is enacted as follows :—

Short title. **1.** This Act shall be called "The Central Provinces Courts' Act, 1865."

In this Act—

Interpretation "Assistant Commissioner" includes Extra Assistant Commissioner.
"Assistant Commissioner."

3. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court.
"District."
"District Court."
"Divisional Court."
The local jurisdiction of a Commissioner shall, in the manner, be deemed a Division, and his Court a Divisional Court.

4. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

- (1). The Court of the Tahsildar of the second class.
- (2). The Court of the Tahsildar of the first class.
- (3). The Court of the Assistant Commissioner of the third class.
- (4). The Court of the Assistant Commissioner of the second class.
- (5). The Court of the Assistant Commissioner of the first class.

- (6). The Court of the Deputy Commissioner.
- (7). The Court of the Commissioner.
- (8). The Court of the Judicial Commissioner.

5. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs, grades any Tahsildar and any Assistant Commissioner shall belong.

6. The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of fifty Rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

7. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

8. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

9. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

10. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand Rupees in value or amount.

11. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand Rupees in value or amount.

12. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades respectively and of Naib Tahsildars invested as aforesaid.

13. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

14. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

15. The memorandum of regular appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division, and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for regular appeals.

16. Whenever the state of the public business requires it, the Local Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

17. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes

shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

18. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by the Act to hear appeals from the decisions of those Courts.

19. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

20. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

21. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him not being a Court of Small Causes shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

22. If the suit be for any immovable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and such Commissioner after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

23. If the District Courts within the limits of whose jurisdiction the immovable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the

District Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

24. This Act shall commence and come into operation on the first day of May 1865.

25. The Governor General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI of 1865, (to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th April 1865, and is hereby promulgated for general information:—

Act No. XV of 1865.

An Act to define and amend the law relating to Marriage and Divorce among the Parsees.

Whereas the Parsee Community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows:—

I.—Preliminary.

1. This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

2. In this Act, unless there be something repugnant in the subject or context—

Words in the singular number include the plural, and words in the plural number include the singular.

"Priest" means a Parsee Priest and includes Dastūr and Mobed.

"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.

"Section" means a Section of this Act.

"Chief Justice" includes Senior Judge.

"Court" means a Court constituted under this Act.

"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and "High Court" means the highest Civil Court of appeal in such part.

II.—Of Marriages between Parsees.

3. No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor General of India in Council shall, after due enquiry, publish in the *Gazette of India*, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Asirvād" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

4. No Parsee shall, after the commencement of this Act, contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

5. Every Parsee who shall, after the commencement of this Act and during the life-time of his or her wife or husband, contract any marriage without having been lawfully divorced

ed from such wife or husband, shall be subject to the penalties provided in Sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

6. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate together with a fee of two Rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

7. For the purposes of this Act a Registrar shall be appointed, who may be the Registrar appointed under Act XVI of 1864 (to provide for the Registration of Assurances). Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

8. The Register of Marriages mentioned in the sixth Section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two Rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

9. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth Section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred Rupees, or with both.

10. Any Priest neglecting to comply with any of the requisitions affecting him contained in the sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Rupees, or with both.

11. Every other person required by the sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred Rupees.

12. Every person making, or signing, or attesting any such certificate containing a statement which is false, and which he either

knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section four hundred and sixty-six of the said Code.

13. Any Registrar failing to enter the said certificate pursuant to the sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

14. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred Rupees.

III.—Of Parsee Matrimonial Courts.

15. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras and Bombay, and in such other places in the Territories of the several local Governments as such Governments respectively shall think fit.

16. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be coterminous with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

17. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be coterminous with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

18. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

19. Any District which the Local Government, on account of the fewness of the Parsee inhabitants shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

20. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal which shall be kept in the custody of the presiding Judge.

21. The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

22. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

23. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

24. The Delegates selected under the sixteenth and seventeenth Sections to aid in the adjudication of suits under this Act shall be taken under the orders of the presiding Judge of the Court in due rotation from the Delegates appointed by the Local Government under the twenty-first Section.

25. All Advocates, Vakeels, and Attornies-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

26. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at

the time of the institution of the suit. When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

IV.—Of Matrimonial Suits.

(a). For a Decree of Nullity.

27. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

28. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

(b). For a Decree of Dissolution in case of Absence.

29. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

(c). For Divorce or Judicial Separation.

30. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

31. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her

to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

32. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at, or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

33. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

34. The Court may, if it shall think fit on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

35. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(d). *For Restitution of Conjugal Rights.*

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause

ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

37. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

38. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

39. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

40. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

41. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

42. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

43. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—Of the Children of the Parties.

44. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

45. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.—Of the Mode of enforcing Penalties under this Act.

46. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

47. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon

summary conviction by any Magistrate of Police of the place at which such Court is held.

48. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's movable property by warrant under the hand of the Officer imposing the fine.

49. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

50. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient movable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—Miscellaneous.

51. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

52. The Governor General of India in Council may invest the Chief Executive Officer of any part of British India, under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

53. This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

32. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at, or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

33. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

34. The Court may, if it shall think fit on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

35. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(d). *For Restitution of Conjugal Rights.*

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause

ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

37. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

38. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

39. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

40. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

41. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

42. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

43. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—Of the Children of the Parties.

44. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

45. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.—Of the Mode of enforcing Penalties under this Act.

46. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

47. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon

summary conviction by any Magistrate of Police of the place at which such Court is held.

48. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's movable property by warrant under the hand of the Officer imposing the fine.

49. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

50. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient movable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—Miscellaneous.

51. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

52. The Governor General of India in Council may invest the Chief Executive Officer of any part of British India, under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

53. This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

"Courts of Revenue." "Courts of Revenue" include Officers employed in making or revising Settlements.

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

2. In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decision of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

3. The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under the second Section of this Act, be deemed the highest Court of appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations and provisos, with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August 1861. Subject to the same restrictions, limitations and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

4. Subject to the proviso in the second Section of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in the said Section, be instituted or tried in any Court or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

5. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844. Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favourable rates.

6. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section) cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

7. All suits relating to the proprietary right in, succession to or possession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in the second Section of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

8. No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to, or possession of, any land, or to any right in respect of any land in the said Province, shall be invalid by reason of anything contained in the said Code.

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th April 1865, and is hereby promulgated for general information :—

ACT No XVII of 1865.

An Act to amend certain Acts relating to the duties of Customs on goods imported and exported by Sea.

Whereas it is expedient to amend the Law relating to Customs duties; It is enacted as follows :—

1. In lieu of the Customs duties authorized to be charged in Act VII of 1859 (to alter the duties of Customs on goods imported or exported by Sea), Act XXIII of 1859 (to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively), Act X of 1860 (to amend Act VII of 1859 to alter the duties of Customs on goods imported or exported by Sea), Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859), Act XXIII

of 1862 (to amend Act XI of 1862), and Act XXIII of 1864 (to amend the law relating to the Customs duties on goods imported by Sea), there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (for equalizing the duties on goods imported and exported on Foreign and British bottoms and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company), or to affect the provisions of The Consolidated Customs' Act.

2. So far as regards the Customs duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor General on the ninth day of March 1865; but save as aforesaid, this Act shall take effect from the first day of April 1865.

Short title.

3. This Act shall be cited as "The Indian Customs Duties' Act of 1865".

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port.

1. Bullion and Coin	...	...	...	...	Free
2. Precious Stones and Pearls	...	...	...	...	"
3. Grain and Pulse	...	...	...	...	"
4. Horses and other living Animals	...	...	...	...	"
5. Ice	...	...	...	...	"
6. Coal, Coke, Bricks, Chalk, and Stones	...	...	...	...	"
7. Cotton Wool	...	...	...	...	"
8. Wool	...	...	...	...	"
9. Flax	...	...	...	...	"
10. Hemp	...	...	...	...	"
11. Jute	...	...	...	...	"
12. Hides and Skins, raw	...	...	...	...	"
13. Books	...	...	...	...	"
14. Paper	...	...	...	...	"
15. Maps, Prints, Music and Works of Art	...	...	...	...	"
16. Seeds when imported by any Public Society for gratuitous distribution	...	...	...	...	"
17. Agricultural Implements	...	...	...	...	"
18. Firewood	...	...	...	...	"
19. Machinery used exclusively for purposes of Agriculture, Navigation, Mining or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery	...	...	...	...	"
And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery or materials forming component parts thereof, and such decision shall be final in law.					
20. Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	...	...	...	...	"
21. Guano and manures of all kinds	...	...	...	...	"
22. Bottles	...	...	...	...	"
23. Wines and Liqueurs...	...	...	one Rupee the imperial gallon.	...	"
24. Porter, Ale, Beer, Cider, and other similar fermented Liquors	...	...	one anna the imperial gallon.	...	"
25. Spirits ...	...	...	three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.	...	"

Provided that 10 per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26. Iron (which shall not be taken to include ironmongery cutlery or hard-ware) ...	one per cent. <i>ad valorem</i> .
27. Hops ...	one per cent. <i>ad valorem</i> .
28. Tobacco, whether manufactured or not manufactured ...	ten per cent. <i>ad valorem</i> .
29. Piece Goods ...	five per cent. <i>ad valorem</i> .
30. Twist ...	three and a half per cent. <i>ad valorem</i> .
31. All other articles not included in the above enumeration ...	seven and a half per cent. <i>ad valorem</i> .

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port as defined in The Consolidated Customs' Act from any Port in British India.

1. Bullion and Coin	...	Free
2. Precious Stones and Pearls	...	"
3. Horses and other living Animals	...	"
4. Rum	...	"
5. Spirits	...	"
6. Tobacco and all preparations thereof	...	"
7. Cotton Wool	...	"
8. Flax	...	"
9. Hemp	...	"
10. Books	...	"
11. Maps, Prints, and Works of Art	...	"
12. Teak Timber	...	"
13. Coal	...	"
14. Iron	...	"
15. Grain and pulse of all sorts	three annas the Indian maund.	} of forty seers of eighty tolahs to the seer.
16. Saltpetre	one Rupee the Indian maund.	
17. Indigo	three Rupees the Indian maund.	
18. Lac Dye and Shell Lac	four per cent. <i>ad valorem</i> .	
19. Hides and Skins, raw	two per cent. <i>ad valorem</i> .	
20. Sugar	two per cent. <i>ad valorem</i> .	
21. Raw Silk and Silk Chussum	two per cent. <i>ad valorem</i> .	
22. All country articles not enumerated or named above	three per cent. <i>ad valorem</i> .	

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information:—

Act No. XVIII of 1865.

An Act to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).

Whereas it is expedient to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties); It is enacted as follows:—

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings, belonging to such class; or on any of the Deeds, Instruments, and Writings, as aforesaid, when executed or granted by or to any particular class of persons or by or to any members of such class, and may in like manner cancel or vary such order to the extent of the powers hereby given. Such cancellation or variation shall also be published in the Official Gazette.

3. Article eleven of Schedule B to the said Act X of 1862, shall be read as if after the words and figures "Act III of 1859," the following words were inserted, that is to say, "or in Courts of Small Causes established under Section six of Act XXII of 1864 (to make provision for the administration of Military Cantonments)."

This Act to be taken as part of Act X of 1862.

4. This Act shall be read with and taken as part of the said Act No. X of 1862.

WHITLEY STOKES,

Off. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information :—

ACT No. XIX OF 1865.

An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows :—

1. This Act shall be called "The Punjab Courts' Act, 1865."

2. In this Act "Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land" does not apply to any land excluded from a settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

3. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

4. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed unless otherwise provided in such Act, namely :—

- (1.)—The Court of the Tahsildar.
- (2.)—The Court of the Assistant Commissioner with ordinary powers.
- (3.)—The Court of the Assistant Commissioner with special powers.
- (4.)—The Court of the Assistant Commissioner with full powers.
- (5.)—The Court of the Deputy Commissioner.
- (6.)—The Court of the Commissioner.
- (7.)—The Court of the Judicial Commissioner.

5. The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

6. The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

7. The Assistant Commissioner with ordinary Jurisdiction of Assistant Commissioner with ordinary powers. powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

8. The Assistant Commissioner with special Jurisdiction of Assistant Commissioner with special powers. powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

9. The Criminal powers to be exercised by the Courts of the said first, second, and third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section twenty-three of the Code of Criminal Procedure.

10. The Assistant Commissioner with full Jurisdiction of Assistant Commissioner with full powers. powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

11. The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in the fourth Section of this Act, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government with the powers described in Act No. XV of 1862 (*to amend the Code of Criminal Procedure*).

12. The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

13. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

- 14.** The Deputy Commissioner may direct Distribution of the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.
- 15.** The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him and try such suit himself, or refer it for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.
- 16.** The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.
- 17.** If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.
- 18.** If the suit be for immovable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.
- 19.** If the Districts within the limits of which the immovable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be submitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.
- 20.** Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the local Government may, with the previous sanction of the Governor General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.
- 21.** In any District in which a Settlement of land revenue is in progress, the local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioners, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land or the rent, revenue or produce of land, on the Revenue, and not on the Civil side of their Courts. The local Government may also, with the previous sanction of the Governor General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land or the rent, revenue or produce of land, such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District, and shall cease on the termination thereof.
- 22.** In any District in which a Settlement of Land Revenue is in progress, the local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under the twenty-first Section of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land: Provided that in the trial of such appeals no deviation shall be allowed from the Rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the Financial Commissioner may be invested with powers as aforesaid the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

23. Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under the twenty-first or the twenty-second Section of his Act.

24. No decision or order passed by any Officer in the Punjab and its Dependencies prior to the passing of this Act shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

25. This Act shall commence and come into operation on the first day of May 1865.

WHITLEY STOKES,
Offg. Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th April 1865, and is hereby promulgated for general information:—

ACT No. XX OF 1865.

An Act to amend the law relating to Pleaders and Mookhtars.

Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents; It is enacted as follows:—

Preliminary.

Short title. **1.** This Act may be cited as "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

2. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section." "Section" means a Section of this Act.

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader." "Pleader" includes Vakeels.

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate." "Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

3. So far as they affect the Territories to which this Act extends, the Laws repealed. enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Of Pleaders and Mookhtars.

4. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time, vary and add to such rules.

5. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a

Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British

India shall be, or shall be qualified to act, as a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

6. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

7. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

8. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

9. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

10. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(a.) In the High Court and any subordinate Court—Rupees fifty:

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five:

(c.) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen:

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(e.) In the High Court and any subordinate Court—Rupees twenty-five:

(f.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen:

(g.) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees eight:

(h.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees four.

11. Pleaders duly admitted and enrolled under this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled.

Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

12. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate

as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

13. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months.

He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

14. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

15. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

16. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any Officer other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

17. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

18. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Of Agents practising in the Revenue Offices.

19. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

20. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

21. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

22. The stamp on such certificate, whether original or renewed, shall be of the following value—
On a certificate authorizing the holder to practise as a Revenue Agent.

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen.

In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten.

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

23. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

24. To facilitate the ascertainment of the Local Government to appoint Examiners. the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

25. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him, and subject to the conditions as aforesaid to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

26. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

27. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

28. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

29. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice

that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

30. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

31. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue, shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

32. The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

33. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months.

34. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act ex-

tends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees two hundred and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

35. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Persons authorized by general or special powers of attorney may be Agents.
Sanction required.

36. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

Of the Remuneration of Pleaders and Revenue Agents.

37. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

38. The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

39. Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be ne-

cessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

Miscellaneous.

40. Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

41. The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

42. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

43. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

44. With the exception of Section thirty-nine this Act shall not apply to Advocates, &c., admitted & enrolled by any High Court under Letters Patent. nor to Advocates, Vakeels and Attorneys-at-law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qua-

lification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

45. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding any thing hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Officer is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

46. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

47. This Act shall take effect in the Territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

48. From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

FIRST SCHEDULE.

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section xxv.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.